Barclays Official

CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Complete Title

Vol. 33

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

REVISED EDITION

This edition of *Barclays Official California Code of Regulations*, revised on April 1, 1990, has been published under the direction of the California Office of Administrative Law which is solely responsible for its contents. Comments or questions regarding regulations published in this edition should be addressed to the State of California, Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814, (916) 323–6225. Errors reported will be promptly corrected in subsequent supplements.

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Courts are required to take judicial notice of contents of regulations published in the *Official California Code of Regulations* (Gov. Code, § 11344.6). *Barclays Official California Code of Regulations*, as revised April 1, 1990, has been certified by the Office of Administrative Law as the official publication of the State of California for this purpose pursuant to title 1, *California Code of Regulations*, section 190.

CODE SUPPLEMENTS

Amendments to the official Code are certified weekly by the Office of Administrative Law for publication by Barclays. These amendments, when certified and published, become part of the *Official California Code of Regulations*, beginning with Register 90, No. 14, dated April 7, 1990, and include all regulations filed with the Secretary of State on or after April 1, 1990. Amendment subscriptions to the entire revised Code, or to parts of it, are available from the publisher. For a descriptive brochure and order form, write Barclays Official California Code of Regulations, P.O. Box 2008, San Francisco, CA 94126 or telephone 800–888–3600.

CODE CITATION

Cite all materials in the *Official California Code of Regulations* by title number and section number. Example: Title 3, *California Code of Regulations*, section 432 (Short form: Cal. Code Regs., tit. 3, § 432).

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TITLE 25. HOUSING AND COMMUNITY DEVELOPMENT

NOMENCLATURE CROSS–REFERENCE

(NOTE: Effective April 1, 1990, the Office of Administrative Law authorized the renaming of the hierarchical headings used within the Titles of the *California Code of Regulations*. Until the agencies implement these changes in their regulations, use the following Cross–Reference Table for the new organizational headings used in this Title.)

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Part	Division
Chapter	Chapter
Subchapter	Subchapter
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Division	Subarticle
Section	Section

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Title 25. Housing and Community Development

Division 1. Housing and Community Development

Chapter 1. State Housing Law Regulations and Earthquake Protection Law Regulations

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TITLE 25. HOUSING AND COMMUNITY DEVELOPMENT

Division 1. Housing and Community Development

Chapter 1. State Housing Law Regulations and Earthquake Protection Law Regulations

Subchapter 1. State Housing Law Regulations

Article 1. Authority, Application and Scope

§ 1. Application and Scope.

(a) The provisions of this subchapter shall apply in all parts of the state and shall apply to the erection, construction, enlargement, conversion, alteration, repair, moving, removal, demolition, occupancy, use height, court area, sanitation, maintenance, and ventilation of all hotels, motels, apartment houses and dwellings, or portions thereof and buildings and structures accessory thereto approved for construction on or after the effective date of this subchapter except as otherwise provided in this subchapter.

(b) The provisions of this subchapter relating to use, maintenance and change of occupancy shall apply to all buildings, or portions thereof, approved for construction or constructed before or after the effective date of this subchapter.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921 and 17922, Health and Safety Code.

HISTORY

1. * Repealer of Subchapter 1 (Articles 1–10, Sections 1–244, not consecutive and Appendix A) and new Subchapter 1 (Articles 1–8, Sections 1–134, not consecutive). Filed 10–21–83; effective thirtieth day thereafter (Register 83, No. 43). For prior history, see Registers 83, No. 17; 82, No. 22; 81, No. 2; 79, Nos. 51, 48, 35, 24; and 78, No. 26.
2. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

* The reorganization of Subchapter 1 is printed as a repealer and adoption for Clarity.

Article 2. Definitions

§ 4. General.

The following definitions and the definitions contained in California Code of Regulations, Title 24, shall apply to the provisions of this subchapter as applicable.

"Building Official." The Department or the local government agency so designated as the enforcement agency in Division 13, Part 1.5, Health and Safety Code.

"Labeled." Bearing a label of an approved testing agency or other approved means of identification.

"Local Appeals Board." The board or agency of a city or county which is authorized by the governing body of the city or county to hear appeals regarding the requirements of the city or county relating to the use, maintenance, and change of occupancy of hotels, motels, lodging houses, apartment houses, and dwellings, or portions thereof, and buildings and structures accessory thereto, including requirements governing alteration, additions, repair, demolition, and moving of these buildings if also authorized to hear these appeals. In any area in which there is no such board or agency, "housing appeals board" means the local appeals board having jurisdiction over the area.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17920.6 and 17921, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

Article 3. Administration and Enforcement

§ 6. Local Regulations.

(a) Except as provided in subsection (b), the governing body of every city or county shall adopt ordinances or regulations imposing the requirements contained in this subchapter. These ordinances and regulations shall be adopted pursuant to Sections 17958, 17958.5, 17958.7, 17958.8, 17958.9 and 17959 of the Health and Safety Code.

(b) The regulations contained in Section 20 and Section 24 (f) through (k) of this subchapter are intended to be enforced by the department. The provisions of these sections need not be adopted by the governing body of any city or county.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921, 17922, 17958, 17958.5, 17958.7, 17958.8, 17958.9 and 17959, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 8. Temporary Housing.

Pursuant to Section 17922.1 of the Health and Safety Code, any city or county may modify or change the requirements contained in this subchapter if it makes a finding that temporary housing is required for use in conjunction with a filed mining claim.

NOTE: Authority cited: Sections 17003.5, 17922, 50061.5 and 50559, Health and Safety Code. Reference: Section 17922.1, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 10. Enforcement.

Enforcement of the provisions of Division 13, Part 1.5 of the Health and Safety Code and the provisions of this subchapter shall be consistent with Sections 17952, 17960, 17961, 17962, 17964, 17965 and 17966 of the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17952, 17960, 17961, 17962, 17964, 17965 and 17966, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 12. Appeals.

Local appeals boards and their actions shall be consistent with Sections 17920.5, 17920.6 and 17925 of the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17920.5, 17920.6 and 17925, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 14. Alternates.

Consistent with Section 17951(d) of the Health and Safety Code, the building department of any city or county may, on a case–by–case basis, approve alternate materials, appliances, installations, devices, arrangements, or methods of construction not specifically prescribed in this subchapter.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17922, 17923 and 17951, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 16. Permits to Construct.

No person shall erect, construct, enlarge, convert, alter, repair, move, remove, or demolish any building or structure subject to the provisions of this subchapter without first obtaining a written construction permit from the enforcing agency unless such work is exempted, as specified in the California Building Standards Code, California Code of Regulations Title 24, this subchapter, or the other rules and regulations promulgated pursuant to Section 17921 of the California Health and Safety Code. Exemption from permit requirements shall not be deemed to grant authorization for any work to be done in violation of the provisions of the California Building Standards Code, this subchapter, other state laws, or ordinances lawfully enacted by the local enforcing agency.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921 and 17922, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 18. Environmental Impact Report.

Wherever the Department is the enforcement agency, an environmental impact report or negative declaration prepared by or under the supervision of the local planning agency shall be submitted with an application for a permit to construct a project subject to the Environmental Quality Act of 1970 (Public Resources Code, commencing with Section 21000). The environmental impact report or negative declaration shall comply with the applicable requirements of the California Code of Regulations, Title 14, Division 6, Chapter 3.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17921, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 20. Permit and Plan Check Fees.

(a) Local Enforcement. Any person submitting an application for a permit to construct shall pay appropriate fees. Valuation of buildings for the purpose of determining fees for permits to construct shall be determined by the enforcement agency. The governing body of any city or county may prescribe fees for permits, certificates, or other forms or documents required or authorized by this subchapter.

(b) Enforcement by the Department. The fees specified in this subchapter shall apply where the Department is the enforcement agency.

(1) Penalty Fees. Where work for which a permit is required by this subchapter is started or proceeded with prior to obtaining that permit, the fees specified in this article may be increased by the enforcement agency but shall not be more than double the fees specified for obtaining the permit; however, the payment of that fee shall not relieve any persons from fully complying with the requirements of this subchapter in the execution of the work or from any penalties prescribed herein.

(2) Plan Check Fees for Identical Buildings. When any person files applications simultaneously to construct two or more buildings which are identical, only one plan check fee will be required. Upon payment of that plan check fee and the filing of an additional set of plans with the enforcement agency, subsequent construction permits may be issued for other identical buildings without payment of plan check fees.

(3) Minimum Permit Fee. The total permit fee is the sum of the fees prescribed in subsections (b)(4), (b)(5) and (b)(6) of this section and in no case shall be less than $15.

(4) Plan Check Fees. Plan check fees shall be equal to one–half of the combined total of construction, mechanical, plumbing and electrical permit fees, as set forth in Tables A, B, and C, however, the minimum fee shall be $10. Those plans which have been returned to the plan submitter for correction shall be resubmitted along with a fee equal to 25 percent of the original plan check fee.

(5) Permit Issuance Fee. The permit issuance fee shall be $10. A single permit may be issued for all work to be accomplished at the same time on the same premises.

(6) Permit Fees.

(A) Table A. Construction Permit Fees.

Total Valuation	*Fee*	
$1 to $500	$10	
$501 to $5,000	$10	for the first $500 plus $1 for each additional $100 or fraction thereof, to and including $5,000.
$5,001 to $25,000	$55	for the first $5,000 plus $3 for each additional thousand or fraction thereof, to and including $25,000.
$25,001 to $50,000	$115	for the first $25,000 plus $2.50 for each additional thousand or fraction thereof, to and including $50,000.
$50,001 to $100,000	$177.50	for the first $50,000 plus $1.50 for each additional thousand or fraction thereof, to and including $100,000.
$100,001 and up	$252.50	for the first $100,000 plus $1 for each additional thousand or fraction thereof.

(B) Table B. Mechanical and Plumbing Permit Fees.

Each plumbing fixture, trap, set of fixtures on one trap, including water, drainage piping and back flow protection therefor	$1.50
Each building sewer	10.00
Each private sewage disposal system	10.00
Each water heater and/or vent	5.00
Each gas piping system of one to five outlets	5.00
Each gas piping system of six or more, per outlet	1.00
Each gas regulator	1.00
Each water branch service outlet or outlets at the same location, or each fixture supply	.30
Each installation of water treating equipment	5.00
Alteration or repair of water piping or water treating equipment	5.00
Alteration or repair of drainage or vent piping	5.00
Each lawn sprinkler system on any one meter, including backflow protection devices thereof	5.00
Vacuum breakers or backflow protective devices on tanks, vats, etc., or for installation on unprotected plumbing fixtures	
One to five	2.00
Over five, each additional	.30
The installation or relocation of each forced–air or gravity–type furnace or burner, including ducts and vents attached to an appliance, up to and including 100,000 B.t.u.'s	10.00
The installation or relocation of each forced–air or gravity–type furnace or burner, including ducts and vents attached to an appliance over 100,000 B.t.u.'s	15.00
The installation or relocation of each floor furnace including vent	5.00
The installation or relocation of each suspended heater, recessed wall heater or floor mounted unit heater	5.00
The installation, relocation or replacement of each appliance vent installed and not included in an appliance permit	5.00
The repair of, alteration of, or addition to each heating appliance, refrigeration unit, comfort cooling unit, absorption unit, or each comfort heating, cooling, absorption, or evaporative cooling system, including installation of controls	10.00
The installation or relocation of each boiler or compressor to and including three horsepower or each absorption system to and including 100,000 B.t.u.'s	10.00
The installation or relocation of each boiler or compressor over three horsepower to and including 15 horsepower, or each absorption system over 100,000 B.t.u.'s to and including 500,000 B.t.u.'s	12.50
The installation or relocation of each boiler or compressor over 15 horsepower to and including 30 horsepower, or for each absorption system over 500,000 B.t.u.'s to and including 1,000,000 B.t.u.'s	15.00
The installation or relocation of each boiler or compressor over 30 horsepower to and including 50 horsepower, or for each absorption system over 1,000,000 B.t.u.'s to and including 1,750,000 B.t.u.'s	17.50
The installation or relocation of each boiler or refrigeration compressor over 50 horsepower, or each absorption system over 1,750,000 B.t.u.'s	30.00
Each air handling unit to and including 10,000 cubic feet per minute, including ducts attached thereto	5.00
NOTE: This fee shall not apply to an air handling unit which is a portion of a factory assembled appliance, comfort cooling unit, evaporative cooler or absorption unit for which a permit is required elsewhere.	
For each air handling unit over 10,000 cubic feet per minute	7.50
For each evaporative cooler other than portable type	5.00
For each vent fan connected to a single duct	2.00
For each ventilation system which is not a portion of any heating or air conditioning system authorized by a permit	5.00
For the installation of each hood which is served by mechanical exhaust, including the ducts for a hood	5.00
For each appliance or piece of equipment regulated by these regulations but not classed in other appliance categories, or for which no other fee is listed in these regulations	5.00

(C) Table C. Electrical Permit Fees.

Each additional outlet, fixture or equipment which has not been included in the original permit	1.00
Total Valuation	*Fee*
Total Valuation	*Fee*
Each wiring outlet where current is used or controlled except services, sub-feeders and meter outlets	.20
Each fixture, socket or other lamp holding device	.20
Each motor of not more than one horsepower	1.00
Each motor of more than one horsepower but not more than 3 horsepower	1.50
Each motor of more than 3 horsepower but not more than 8 horsepower	2.00
Each motor of more than 8 horsepower but not more than 14 horsepower	2.50
Each motor of more than 15 horsepower but not more than 50 horsepower	3.00

[The next page is 3.]

Each motor of more than 50 horsepower but not more than 100 horsepower	5.00
Each motor of more than 100 horsepower	10.00
Each generator, transformer, or welder—each K.V.A. capacity shall be considered as one horsepower in a motor. Each motor-generator set or frequency changer—the fee charged shall be 100 percent greater than for the motor alone.	
Each mercury arc lamp and equipment	.50
Each range, water heater or clothes dryer installation	5.00
Each space heater or infrared heat installation	1.00
Each stationary cooking unit, oven, or space heater	1.00
Each garbage disposer, dishwasher, or fixed motor-operated appliance not exceeding one-half horsepower	1.00
Working lights in buildings in course of construction or undergoing repairs, or where temporary lighting is to be used	2.00
Each incandescent electric sign	1.00
Electric signs or outline lighting, luminous gas type with one to four transformers	2.00
Additional transformers, each	.25
Each rectifier and synchronous converter, per K.W	.25
Each additional circuit for an accessory building or structure or other electrical equipment	1.00
Each service:	
600 volts or less, not over 200 amperes	5.00
600 volts or less, over 200 amperes	7.50

(D) Table D-1. Plan-checking Fees (Excavation and Grading).

50 to 100 cubic yards	10.00
101 to 1000 cubic yards	15.00
1001 to 10,000 cubic yards	20.00
10,001 to 100,000 cubic yards—$20.00 for the first 10,000 cubic yards plus $10 for each additional 10,000 cubic yards or fraction thereof	
100,001 to 200,000 cubic yards—$110 for the first 100,000 cubic yards plus $6 for each additional 10,000 cubic yards or fraction thereof	
200,001 cubic yards or more—$170 for the first 200,000 cubic yards, plus $3 for each additional 10,000 cubic yards or fraction thereof	

Table D-2. Grading Permit Fees.

50 cubic yards or less	10.00
50 to 100 cubic yards	15.00
101 to 1000 cubic yards—$15 for the first 100 cubic yards,plus $7 for each additional 100 cubic yards or fraction thereof	
1001 to 10,000 cubic yards—$78 for the first 1000 cubic yards, plus $6 for each additional 1000 cubic yards or fraction thereof	
10,001 to 100,000 cubic yards—$132 for the first 10,000 cubic yards, plus $27 for each additional 10,000 cubic yards or fraction thereof	
100,001 cubic yards or more—$375 for the first 100,000 cubic yards, plus $15 for each additional 10,000 cubic yards or fraction thereof	
Permit Extension Fee, Minimum	5.00
Alternate Approval Fee	25.00
Certificate of Occupancy	20.00

(7) Technical Service Fee.

(A) Any city or county may request technical assistance from the Department. The assistance may include inspections or interpretation and clarification of applicable regulations.

(B) Requests for this service shall be submitted to the Department in writing. The fee shall be:

1. $39.00 for the first hour.

2. $19.50 for each additional 30 minutes or fractional part thereof.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921 and 17966,Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section heading and section filed 6-23-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

Article 4. Construction, Additions, Alterations

§ 22. Building Requirements.

Except as otherwise permitted or required by Division 13, Part 1.5 of the Health and Safety Code, by this subchapter, and by other applicable laws and regulations, all buildings and structures subject to this subchapter shall comply with the regulations contained in the California Building Code, Part 2, Title 24, California Code of Regulations.

NOTE: Authority cited: Sections 17003.5, 17921, 17922, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921, 17922, 18930, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending article heading, section heading and section filed 6-23-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 24. Foam Building Systems.

(a) General. Foam Building Systems except as otherwise provided in this section shall comply with the requirements contained in Chapter 2-17 in Part 2, Title 24, California Code of Regulations.

NOTE: Chapter 2-17 of Title 24 adopts Chapter 17 of the 1979 Uniform Building Code by reference. Specific Foam Plastics requirements may be found in Section 1717 of the 1979 UBC.

(b) Application and Scope. This section shall apply to all buildings subject to the provisions of this subchapter. This section shall not apply to plumbing fixtures, furnishings, floor coverings or contents of buildings.

(c) Effective Date. These regulations shall become applicable to the selling, offering for sale, or use in construction of buildings subject to this part, in this state of any foam building system on and after the 180th day after such standards become effective. The effective date of this section is March 2, 1975.

(d) Non-Applicability. This section shall not apply to any building or structure constructed prior to the 180th day after the effective date of these regulations. (August 30, 1975)

(e) Definitions. In addition to the definitions contained in this subchapter, the definitions contained in this section shall apply for purposes of carrying out the administrative and enforcement responsibilities of the Department.

(1) "Foam" means a material (foamed plastic) made by mixing organic polymers with air or other gases in a manner that forms a solid substance with holes filled with air or gas when the mixture is allowed to set.

(2) "Foam Building System" means a system of building materials composed of, in whole or in part, of foam. It includes, but is not limited to, all combinations of systems such as those composed of foam inserted between and bonded to two boundary surface materials or those composed exclusively of foam.

(3) "Manufacturer" is any person who produces "foam" or "foam building systems" as defined in this section.

(f) Enforcement. Except as provided in Section 20 of this subchapter, the Department shall administer and enforce the provisions of this section related to foam building systems.

(1) The Department shall cause such inspections of the manufacture of foam plastic building systems to be made as are necessary to secure compliance with this section.

(2) For purposes of this section, the Department may utilize the services of an approved testing agency and/or an approved listing agency.

(g) Listing and Labeling.

(1) Every foam system intended for on-site application of foam shall be identified with an approved label in a visible location, on all containers. Instructions for use shall accompany each shipment.

(2) Factory-provided "foam building systems" shall be identified with an approved label in a visible location.

(3) All fabricated foam products shall be identified with an approved label.

(4) Foam plastic interior trim shall be identified with an approved label in a visible location.

(h) Department Disapproval of Listed or Labeled Foam or Foam Building Systems. Foam or foam building systems shall not be accepted by the Department when it determines that the foam or foam building systems, even though listed or labeled by an approved testing agency, are not adequate for the protection of health, safety and the general welfare.

(i) Requirements for Approved Testing and/or Listing Agency. An approved testing and/or listing agency shall meet the following requirements of the Department when applicable.

(1) Provide a chart setting forth its organizational structure.

(2) Provide documented evidence showing the agency is in the business of testing and/or listing of materials and systems similar to those defined in this section.

(3) Provide a notarized statement certifying that the agency has no proprietary interest or management ties with the manufacturer or any subsidiary of that manufacturer.

(4) Provide a detailed outline of how the in-plant inspections will be performed and the frequency of these inspections.

(5) Provide an explanation of how discrepancies noted will be recorded and marked, and how corrections will be obtained.

(6) Provide details of how reports are to be made to the Department, together with samples of forms to be used.

(7) Provide an explanation of how certification of foam or foam building systems will be made, and a sample of the listing label or other pertinent information.

(8) Advise the Department within 15 days of any change in address or location.

(9) Keep current information and requirements related to matters governed by this section.

(10) An approved testing agency which does not list and label may be used in conjunction with an approved listing agency, to perform the listing and labeling required to certify a manufacturer's foam building system.

(j) Approval.—Approved Testing and/or Listing Agency.

(1) Any testing or listing agency may officially request, in writing, Department approval, by submitting the information required in subsection (i) of this section, accompanied by a fee of $100.

(2) The Department shall:

(A) Acknowledge receipt of applications and fees.

(B) Review the applicant's submissions within a reasonable time and advise the applicant of its approval or disapproval.

(k) Revocation of Approval.—Approved Testing and/or Listing Agency.

The Department may revoke its approval of an approved testing or listing agency for cause. The Department's revocation may be subject to appeal.

NOTE: Authority cited: Sections 17003.5, 17920.9, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17920.9, 17921, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 26. Mechanical—Building Regulations.

Except as otherwise permitted or required by Division 13, Part 1.5, of the Health and Safety Code, by this subchapter or by other applicable laws and regulations, all buildings and structures subject to this subchapter shall comply with the regulations contained in the California Mechanical Code, Part 4, Title 24, California Code of Regulations.

NOTE: The provisions contained in the Unfired Pressure Vessel Safety Orders, California Code of Regulations, Title 8, Part 1, Chapter 4, Subchapter 1, except as permitted or required by the Uniform Mechanical Code, when not otherwise subject to enforcement by the Division of Industrial Safety, Department of Industrial Relations, shall apply to this subchapter.

NOTE: Authority cited: Sections 17003.5, 17921, 17922, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921, 17922, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 28. Electrical—Building Regulations.

Except as otherwise permitted or required by Division 13, Part 1.5, of the Health and Safety Code, by this subchapter or by other applicable laws and regulations, all buildings and structures subject to this subchapter shall comply with the regulations contained in the California Electrical Code, Part 3, Title 24, California Code of Regulations.

NOTE: Authority cited: Sections 17003.5, 17921, 17922, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921, 17922, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 30. Plumbing—Building Regulations.

Except as otherwise permitted or required by Division 13, Part 1.5, of the Health and Safety Code, by this subchapter, or by other applicable laws and regulations, all buildings and structures subject to the provisions of this subchapter shall comply with the regulations contained in the California Plumbing Code, Part 5, Title 24, California Code of Regulations.

NOTE: Authority cited: Sections 17003.5, 17921, 17922, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921, 17922, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section heading and section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

Article 5. Existing Buildings

§ 32. Space, Occupancy, and Maintenance.

Except as otherwise permitted or required by Health and Safety Code, Division 13, Part 1.5, this subchapter or by other applicable laws and regulations, and the provisions of the 1997 Edition of the Uniform Housing Code, Chapters 4, 5, and 6, and Sections 701.2 and 701.3, as adopted by the International Conference of Building Officials, with the following State amendments, are hereby incorporated by reference and shall apply to buildings or structures subject to the provisions of this subchapter.

(a) HOT WATER is water supplied to plumbing fixtures at a temperature of not less than 110 degrees F (43.3 degrees C).

(b) MECHANICAL CODE is the California Mechanical Code contained in Part 4, Title 24, California Code of Regulations.

(c) PLUMBING CODE is the California Plumbing Code contained in Part 5, Title 24, California Code of Regulations.

NOTE: Authority cited: Sections 17003.5, 17921, 17922, 50061.5 and 50559, Health and Safety Code. Reference: Section 17922, Health and Safety Code.

HISTORY

1. Amendment filed 6–5–86; effective thirtieth day thereafter (Register 86, No. 23).
2. Amendment filed 5–24–89; operative 6–23–89 (Register 89, No. 22).
3. Amendment filed 9–21–92; operative 10–21–92 (Register 92, No. 39).
4. Amendment filed 4–28–95; operative 4–30–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 17).
5. Change without regulatory effect adding new subsection (a) designator and new subsection (b) filed 7–10–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
6. Amendment filed 7–23–98; operative 8–22–98 (Register 98, No. 30).
7. Change without regulatory effect amending first paragraph filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 34. Heating.

(a) Every dwelling unit and guest room used or offered for rent or lease shall be provided with heating facilities capable of maintaining a minimum room temperature of 70 degrees F at a point three feet above the floor in all habitable rooms, and when the heating facilities are not under the control of the tenant or occupant of the building owner and/or manager, shall be required to provide that heat at a minimum temperature of 70 degrees F, 24 hours a day. These facilities shall be installed and maintained in a safe condition and in accordance with Chapter 37 of the Uniform Building Code, the Uniform Mechanical Code, and other applicable laws. No unvented fuel burning heaters shall be permitted. All heating devices or appliances shall be of the approved type.

(b) The provisions of Subsection (a) are subject to the exemption for existing buildings provided in Section 103, of the Uniform Housing Code.

(c) Those buildings and structures which are exempt from the requirements of Section 103 shall be provided with heat at a temperature as close to 70 degrees F as the existing heating facilities are capable of providing at a point three feet above the floor in all habitable rooms when the heating facilities are not under the control of the tenant.

NOTE: Authority cited: Sections 17003.5, 17921, 17922, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17920.3, 17921 and 17922, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 36. Rehabilitation and Repair.

Rehabilitation and repair of existing buildings and structures subject to this subchapter shall also be subject to those requirements contained in Division 13, Part 1.5 of the Health and Safety Code which are applicable to rehabilitation and repair.

NOTE: Authority cited: Sections 17003.5, 17921, 17922(c), 50061.5 and 50559, Health and Safety Code. Reference: Sections 17922(c) and 17958.8, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 38. Garbage Receptacles.

An adequate number of appropriate receptacles with close–fitting covers for garbage and rubbish as may be considered necessary by the enforcement agency shall be provided for the occupant of every dwelling unit by the owner or operator of every structure or building subject to this subchapter. Each receptacle shall be kept in a clean condition and in good repair.

NOTE: Authority cited: Sections 17003.5, 17922, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17920.3 and 17922, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 40. Bedding.

In every apartment house or hotel subject to this part, held out for rent and furnished with a bed and bedding, every part of every bed, including the mattress, sheets, blankets, and bedding shall be kept in a clean, dry and sanitary condition, free from filth, urine, or other foul matter, and from the infection of lice, bedbugs, or other insects. The bed linen in a hotel shall be changed before a new guest occupies the bed. In every dwelling unit where linen is furnished, the linen shall be changed before a new guest occupies the dwelling unit.

NOTE: Authority cited: Sections 17003.5, 17921, 17922, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17920.3 and 17922, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 42. Caretaker.

A manager, janitor, housekeeper, or other responsible person shall reside upon the premises and shall have charge of every apartment house in which there are 16 or more apartments, and of every hotel in which there are 12 or more guest rooms, in the event that the owner of an apartment house or hotel does not reside upon said premises. Only one caretaker would be required for all structures under one ownership and on one contiguous parcel of land. If the owner does not reside upon the premises of any apartment house in which there are more than four but less than 16 apartments, a notice stating the owner's name and address, or the name and address of the owner's agent in charge of the apartment house, shall be posted in a conspicuous place on the premises.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17910–17995, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 44. Hotplates.

The use of hotplates existing in rooms prior to September 20, 1963, shall be in accordance with the provisions of Section 17921.1 of the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17921.1, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 46. Portable Fire Extinguishers.

Portable fire extinguishers shall be provided and maintained in every apartment house and hotel. The number and type of portable fire extinguishers to be installed shall be determined by the enforcement agency. However, the minimum requirements shall be as set forth in Title 19, Chapter 1, Subchapter 3, California Code of Regulations.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17921, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

Article 6. Actions and Proceedings

§ 48. Access and Inspections.

Access for inspection and repair of buildings subject to the provisions of this subchapter shall be as provided by Sections 17970, 17971, and 17972, of the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921, 17970, 17971, 17972, Health and Safety Code.

§ 50. Abatement Actions.

Abatement actions instituted by an enforcement agency shall be in accordance with the provisions set forth in Article 3 (commencing with section 17980) of Division 13, Part 1.5 of the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17980 through 17990, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 52. Abatement Procedure.

The procedures for abatement, prescribed by this article, or other procedures as determined by the enforcement agency to be equivalent for the purpose intended, may be used.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17980 through 17990, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 54. Nuisances—Notices.

Whenever any building or portion thereof, has become substandard as described in Section 17920.3 or is a building as described in 17920.10, of the Health and Safety Code, and when determined to be a nuisance as defined in Section 17920 of the Health and Safety Code by the enforcement agency, the following shall apply:

The enforcement agency shall notify the owner of the building and any mortgagee or beneficiary under any deed of trust, of record, as follows. The notice shall state the conditions causing the building to become substandard or in violation of Section 17920.10 of the Health and Safety Code, and shall order the building, or portion thereof, vacated and shall institute proceedings for the correction or abatement thereof, either by demolition, closing or repair, within 30 days after the date of the notice. If, in the opinion of the enforcement agency, these conditions can be corrected or abated by repair thereof, the notice shall state the repairs which will be required.

If the building is encumbered by a mortgage or deed of trust, of record, and the owner of the building has not complied with the order of the enforcement agency on or before the expiration of 30 days after the mailing and posting of the notice, the mortgagee or beneficiary under the deed of trust may, within 15 days after the expiration of the 30–day period, comply with the requirements of the order of the enforcement agency, in which event the cost to the mortgagee or beneficiary shall be added to, and become a part of, the lien secured by the mortgage or deed of trust, and shall be payable at the same time and in the same manner as may be prescribed in the mortgage or deed of trust for the payment of any taxes

advanced or paid by the mortgagee or beneficiary for and on behalf of the owner.

If the order of the enforcement agency has not been complied with on or before the expiration of 45 days after the mailing and posting of the notice, the enforcement agency may institute an appropriate action or proceeding to correct or abate the condition, as would be taken to correct or abate any nuisance or any violation of any other provision of this article or, as an alternative procedure, the enforcement agency may institute proceedings for the abatement of the nuisance, after notice and hearing, before the governing board of the agency as follows.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921, 17980 and 17985, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 56. Revolving Fund.

For the purpose of providing for the advancement of costs in the enforcement of the provisions of this article, any city or county may create revolving fund or funds from which may be paid the costs of enforcing the provisions of this article and into which may be paid the receipts from the collection of costs or fines imposed in the enforcement thereof.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17951, Health and Safety Code.

§ 58. Manner of Giving Notice.

The notices required in Section 54 shall be given in the following manner: The enforcement agency shall post conspicuously at least one copy of the notice on the building alleged to have become substandard, and shall send another copy by registered or certified mail, postage prepaid, return receipt requested, to the person owning the land on which the building is located, as that person's name and address appear on the last equalized assessment roll, or as known to the clerk of the governing board of the enforcement agency and to any mortgagee or beneficiary. If the address is unknown to the enforcement agency, this fact shall be stated in the copy so mailed and it shall be addressed to this person at the county seat of the county where the property is situated.

The officer or employee of the enforcement agency upon giving the notice, shall file an affidavit with the clerk of the governing board of the enforcement agency, certifying the time and the manner in which the notice was given along with any receipt card returned in acknowledgment of the receipt of the notice by registered mail. The failure of any owner or other person to receive the notice, shall not affect in any manner the validity of any proceedings taken hereunder.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17980, 17985, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 60. Second Notice.

(a) If the enforcement agency determines to proceed with the abatement of the nuisance through proceedings instituted before its governing board, it shall give a second notice in the same manner as set forth in Section 58 directing the owner of the building to appear before the governing board of the enforcement agency at a stated time and place and show cause why the building should not be condemned as a nuisance, and the nuisance be abated as provided in this article. A copy of this notice shall be mailed to each mortgagee or beneficiary under any deed of trust, of record, in the manner prescribed in Section 58. The notice shall be headed "Notice to Abate Nuisance" in letters of not less than three–fourths of an inch in height and shall be substantially in the following form:

NOTICE TO ABATE NUISANCE

The owner of the building situated at _____ is hereby notified to appear before _____ (insert name of governing board) of the _____ (insert name of enforcement agency) at its meeting to be held _____, 20__, at _____ (place of meeting) at the hour of _____ o'clock __m., or as soon thereafter as the owner may be heard, and show cause, if any, why the building should not be condemned as a public nuisance and the nuisance be abated by reconstructing or properly repairing the building or by razing or removing it.

Dated _____

_____

(Name of enforcement agency)

By_____

(Name of officer)

(b) The officer or employee of the enforcement agency giving such notice shall file an affidavit of posting and mailing in the manner required by Section 62 hereof, but the failure to any owner or other required by such notice shall not affect in any manner the validity of any proceeding taken hereunder.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17980 and 17985, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 62. Hearing.

(a) At the time fixed in said notice, the governing board of the enforcement agency shall proceed to hear the testimony of the officers or employees of the enforcement agency and the owner or his representatives, if present at said hearing, and other competent persons who may be present and desire to testify, respecting the condition of said building, the estimated cost of its reconstruction, repair or removal, and any other matter which said governing body may deem pertinent thereto. Upon the conclusion of said hearing, said governing board may, by resolution, declare its findings and, in the event that it so concludes, it may declare said building to be a nuisance and direct the owner to abate the same within 30 days after the date of posting on said premises a notice of the passage of said resolution by having said building properly reconstructed or repaired, or having the same razed or removed and notifying said owner that if said nuisance is not abated said building will be razed or removed by the enforcement agency and the expense thereof made a lien on the lot or parcel of land upon which said building is located.

(b) At any time within 60 days after the passage of any resolution directing the abatement of a nuisance, the enforcement agency shall post a copy thereof conspicuously on the building so declared to be a nuisance and mail another copy by registered mail, postage prepaid, return receipt requested, to the person owning the land on which the building is located as such person's name and address appear on the last equalized assessment roll or as known to the clerk of the governing board of such enforcement agency, and a copy of said notice shall be mailed to each mortgagee or beneficiary under any deed of trust, of record, at the last known address of such mortgagee or beneficiary, and if such address is unknown to the enforcement agency, then said fact shall be stated in said copy so mailed and it shall be addressed to him at the county seat of the county where said property is situated. The officer or employee of the enforcement agency, upon giving notice as aforesaid, shall file an affidavit thereof in the manner provided for in Section 58 thereof. The governing board of the enforcement agency may grant any extension of time to abate said nuisance that it may deem justifiable upon good cause therefore being shown.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17980 and 17985, Health and Safety Code.

§ 64. Time to Bring Action.

Any owner or other interested person having any objections, or feeling aggrieved at any proceedings taken by the governing board of the enforcement agency in ordering abatements of any nuisance, must bring an action in a court of competent jurisdiction within 30 days after the date of posting on said premises a notice of the passage of the resolution declaring the nuisance to exist to contest the validity of any proceedings leading up to and including the adoption of the resolution; otherwise all objections will be deemed to have been waived.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17980 and 17985, Health and Safety Code.

§ 66. Jurisdiction to Abate.

Thirty days after the posting of the copies of the resolution declaring any building a nuisance, the enforcement agency shall be deemed to have acquired jurisdiction to abate such nuisance by razing or removing the building, unless the nuisance is abated by the owner or other person interested within the 30–day period or any extension thereof granted by the governing board as provided for in this article. In the event that the nuisance is not abated within the time prescribed the enforcement agency may thereupon raze and remove the building so declared to constitute a nuisance or have the same done under its direction and supervision.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17959.4, 17980 and 17985, Health and Safety Code.

§ 68. Sale of Materials.

The building materials contained in such building so razed or removed may be sold by the governing board at public sale to the highest responsible bidder after not less than five days notice of intended sale published at least once in a newspaper of general circulation published in the city or county wherein such building is located, either before or after said building has been razed or removed and any amount received from the sale of such building materials shall be deducted from the expense of razing or removing said building. The enforcement agency shall keep an itemized account of the expense involved in the razing or removing of any such building and shall deduct therefrom the amount received from the sale of the building materials. The enforcement agency shall cause to be posted conspicuously on the property from which the building was razed or removed a statement verified by the officer of the enforcement agency in charge of doing the work showing the gross and net expense of the razing or removing of such building together with a notice of the time and place when and where said statement shall be submitted to the governing board of the enforcement agency for approval and confirmation and at which time said governing board shall consider any objections or protests, if any, which may be raised by any property owner liable to be assessed for the cost of such work and any other interested persons. A copy of said statement and notice shall be mailed in the manner prescribed in Section 58 and an affidavit of such posting and mailing shall be filed in the manner prescribed in said section. The time for confirmation shall be not less than five days from the date of the posting and mailing of said statement and notice.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921 and 17951, Health and Safety Code.

§ 70. Statement of Expense.

(a) At the time fixed for the hearing of the statement of expense the governing board of the enforcement agency shall consider the statement, together with any objections or protests which may be raised by any of the property owners liable to be assessed for doing the work and any other interested persons; and thereupon said governing board may make such revision, correction, or modification in the statement as it may deem just, after which, by motion or resolution, said report as submitted, or in the event any revisions, corrections or modifications have been ordered made by said governing board then said statement as revised, corrected or modified, shall be confirmed. The board may adjourn said hearings from time to time and its decisions on said statement and on all protests and objections which may be made shall be final and conclusive.

(b) In the event that the cost for razing or removing the nuisance exceeds the proceeds received from the sale of any materials, then the amount of the net expense of abating the nuisance, if not paid within five days after the decision of the governing board on its statement, shall constitute a lien on the real property upon which the same was abated or removed, which lien shall continue until the amount thereof and interest thereon at the rate of 6 percent per annum, computed from the date of confirmation of the statement until paid, or until it is discharged of record. This lien shall, for all purposes, be upon parity with the lien of State, county, and municipal taxes. In the event of nonpayment, the governing board shall, at any time within 60 days after the decision of the governing board on the statement, cause to be filed in the office of the county recorder of the county in which the property is located a certificate substantially in the following form:

NOTICE OF LIEN

Pursuant to the authority vested in the undersigned by Division 13, Part 1.5 of the Health and Safety Code and California Code of Regulations, Title 25, Chapter 1, Subchapter 1, of the State of California, the undersigned did on the _____ day of _____, 20__, cause a nuisance to be abated on the real property hereinafter described; and the undersigned did on the _____ day of _____, 20__, by action duly recorded in its official minutes as of that date, assess the cost of the abatement, less the amount received from the sale of any building materials upon the real property hereinafter described, and the same has not been paid nor any part thereof; and the _____ (enforcement agency) does hereby claim a lien on the real property for the net expense of the doing of the work in the sum of $_____, and the same shall be a lien upon the real property until the sum, with interest at the rate of 6 percent per annum, from the _____ day of _____, 20__, (insert date of confirmation of statement) has been paid in full and discharged of record. The real property hereinbefore mentioned, and upon which a lien is claimed, is that certain piece or parcel of land lying and being in the City of _____, County of _____, State of _____, and particularly described as follows:

Dated_____

_____

(Name of enforcement agency)

By_____

(Name of officer)

(c) From and after the date of the recording of said notice of lien all persons shall be deemed to have had notice of the contents thereof. The statute of limitations shall not run against the right of the enforcement agency to enforce the payment of said lien.

(d) In the event that the amount received from the sale of material exceeds the expenses of razing or removing such building, then such excess shall be deposited with the treasurer of the enforcement agent to the credit of the owner of said property or to such other person legally entitled thereto, and such excess shall be payable to said owner or other person on demand and upon producing evidence of ownership satisfactory to said treasurer.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17951, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending subsection (b) filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

Article 7. Penalties

§ 72. Penalties.

Any violation of this subchapter or of the Health and Safety Code, Division 13, Part 1.5, commencing with Section 17910 (State Housing Law) shall be subject to the penalties as set forth in Section 17995 of the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5, 17921, 17995, 50061.5 and 50559, Health and Safety Code. Reference: Section 17995, Health and Safety Code.

Article 8. Regulations for Limited Density Owner–Built Rural Dwellings

§ 74. Purpose.

The purpose of this article is to provide minimum requirements for the protection of life, limb, health, property, safety, and welfare of the general public and the owners and occupants of limited density owner–built rural dwellings and appurtenant structures. It is also the expressed purpose of this article to conform the regulations regarding the construction and use of limited density, rural owner–built dwellings and appurtenant

structures to the requirements of Article 1, Section 1, of the California State Constitution, and the statutes of the State of California which require the department to consider the uniform model codes and amendments thereto; and local conditions, among which are conditions of topography, geography and general development; and to provide for the health, safety and general welfare of the public in adopting building standards. Any section, subsection, sentence, clause, or phrase of this article if, for any reason, held to be unconstitutional, or contrary to California statutes, such ruling shall not affect the validity of the remaining portions of this article.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17921, Health and Safety Code.

§ 76. Intent and Application.

The provisions of this article shall apply to the construction, enlargement, conversion, alteration, repair, use, maintenance, and occupancy of limited density owner–built rural dwellings and appurtenant structures.

It is the intent of this article that the requirements contained herein shall apply to seasonally or permanently occupied dwellings, hunting shelters, guest cottages, vacation homes, recreational shelters and detached bedrooms located in rural areas.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17921, Health and Safety Code.

§ 78. Definitions.

For the purposes of this article the following definitions shall apply:

"Limited density, rural dwelling." A "limited density, rural dwelling" is any structure consisting of one or more habitable rooms intended or designed to be occupied by one family with facilities for living and sleeping, with use restricted to rural areas that fulfill the requirements of this article.

"Owner built."

(a) "Owner built" shall mean constructed by any person or family who acts as the general contractor for, or the provider of, part or all of the labor necessary to build housing to be occupied as the principal residence of that person or family, and not intended for sale, lease, rent or employee occupancy.

(b) For the purposes of this article the sale, lease, renting (see local authority Section 82(b)) or employee occupancy of owner–built structures in one year of issuance of a Certificate of Occupancy shall be presumptive evidence that the structure was erected for the purpose of sale, lease, or renting.

"Rural." For the purpose of this article only, "rural" shall mean those unincorporated areas of counties designated and zoned by the appropriate local agency for the application of this article. In defining "rural," the agency shall consider local geographical or topographical conditions, conditions of general development as evidenced by population densities and availability of utilities or services, and such other conditions that the agency deems relevant to its determination.

Suitable areas may include those wherein the predominate land usage is forestry, timber production, agriculture, grazing, recreation, or conservation.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921 and 17922(b), Health and Safety Code.

§ 80. Local Standards.

Pursuant to Sections 17958, 17958.5, and 17958.7 of the Health and Safety Code, the governing body of every jurisdiction in which there exist rural areas displaying conditions appropriate for the application of this article and designated as such by the appropriate local agency shall adopt regulations imposing the same requirements as are contained in this article.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17958.2 and 17922(b), Health and Safety Code.

§ 82. Regulation of Use.

(a) For the purposes of this article the sale, lease, renting or employee occupancy of owner–built structures within one year of the issuance of a Certificate of Occupancy shall be presumptive evidence that the structure was erected for the purpose of sale, lease or renting.

(b) The restrictions of this article on the sale, lease, renting, or employee occupancy of these dwellings may be reasonably amended to be more restrictive if the governing body determines that such an amendment is necessary to ensure compliance with the intent of this article.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921 and 17958.2, Health and Safety Code.

§ 84. Abatement of Substandard Buildings.

All structures or portions thereof which are determined by the enforcing agency to constitute a substandard building shall be declared to be a public nuisance and shall be abated by repair, rehabilitation, or removal in accordance with Health and Safety Code Sections 17980 through 17995. In cases of extreme hardship to owner–occupants of the dwellings, the appropriate local body should provide for deferral of the effective date of orders of abatement.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17980 through 17995, Health and Safety Code.

§ 86. Petitions for Interpretations.

Any person or local agency may petition the Department for an interpretation of any provision of this article. Petitions shall be submitted in writing, after which the Department may consider such requests and the Department may make a determination as to the meaning or intent of any provision of this article with respect to the petition in question. The consideration of petitions for interpretation shall be discretionary with the Department.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17930, Health and Safety Code.

§ 88. Interpretation.

Interpretations by the Department as to the meaning, intent, or application of the provisions of this article are not intended to preempt the exercising of building or housing appeals processes established by Sections 17930–17932 of the Health and Safety Code, but are intended to facilitate public understanding and the effective enforcement of this article.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17930, Health and Safety Code.

§ 90. Notice of Findings.

The Department shall keep a record of all interpretations made by the Commission which shall be available for review by the public or any governmental agency and shall provide notice to the petitioner(s) of the Department's findings.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17930, Health and Safety Code.

§ 92. Recording.

No provision of this article is intended to prohibit or limit a local governing body from establishing and enforcing reasonable regulations for the recording of information regarding the materials, methods of construction, alternative facilities, or other factors that may be of value in the full disclosure of the nature of the dwelling and appurtenant structures.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17958.5, Health and Safety Code.

§ 94. Violations.

The critical concern in the promulgation of this article is to provide for health and safety while maintaining respect for the law and voluntary compliance with the provisions of this article, and therefore, in the event that an order to correct a substandard condition is ignored, it is the intent of this section that civil abatement procedures should be the first remedy pursued by the enforcement agency.

NOTE: Authority cited: Sections 17003.5, 17921, 17980, 50061.5 and 50559, Health and Safety Code. Reference: Section 17980, Health and Safety Code.

§ 96. Permits.

Permits shall be required for the construction of rural dwellings and appurtenant structures. The application, plans, and other data filed by an applicant for such permit shall be reviewed by the appropriate enforcement agency to verify compliance with the provisions of this article. When the enforcement agency determines that the permit application and

other data indicate that the structure(s) will comply with the provisions of this article, the agency shall issue a permit therefore to the applicant.

EXEMPTIONS: Permits shall not be required for small or unimportant work, or alterations or repairs that do not present a health or safety hazard, and which are in conformance with local zoning requirements or property standards. The determination, if any, of what work is properly classified as small or unimportant or without relation to health and safety hazards is to be made by the appropriate local agencies.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17922(b), Health and Safety Code.

§ 98. Application.

To obtain a permit, the applicant shall first file an application therefore with the designated enforcement agency. Permit applications shall contain the following information: (1) name and mailing address of the applicant; (2) address and location of the proposed structure(s); (3) a general description of the structure(s) which shall include mechanical installations with all clearances and venting procedures detailed, electrical installations, foundation, structural, and construction details; (4) a plot plan indicating the location of the dwelling in relation to property lines, other structures, sanitation and bathing facilities, water resources, and water ways; (5) approval for the installation of a private sewage disposal system or alternate waste disposal means from the local health enforcement agency; (6) a stipulation by the applicant that the building or structure is to be owner–built; (7) the signature of the owner or authorized agent; (8) the use or occupancy for which the work is intended; (9) and any other data or information as may be required by statute or regulation.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17922(b), Health and Safety Code.

§ 100. Plans.

Plans shall consist of a general description of the structure(s), including all necessary information to facilitate a reasonable judgment of conformance by the enforcing agency. This may include a simplified diagram of the floor plan and site elevation in order to determine the appropriate dimensions of structural members. Architectural drawings and structural analyses shall not be required except for structures of complex design or unusual conditions for which the enforcement agency cannot make a reasonable judgment of conformance to this article based upon the general description and simplified plan(s).

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17951(d), Health and Safety Code.

§ 102. Waiver of Plans.

The enforcement agency may waive the submission of any plans if the agency finds that the nature of the work applied for is such that the reviewing of plans is not necessary to obtain compliance with this article.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17951(d), Health and Safety Code.

§ 104. Modifications.

Modifications to the design, materials, and methods of construction are permitted, provided that the structural integrity of the building or structure is maintained, the building continues to conform to the provisions of this article and the enforcement agency is notified in writing of the intended modification.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17951, Health and Safety Code.

§ 106. Permit Validity.

Permits shall be valid, without renewal, for a minimum period of three years.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17921, Health and Safety Code.

§ 108. Inspections.

All construction or work for which a permit is required may be subject to inspection by the designated enforcement agency. If an inspection is required, the inspection of the building or structure(s) shall be conducted after the structure(s) is completed and ready for occupancy, in order to determine compliance with the provisions of this article. Structures of conventional or simple construction shall be inspected at a single inspection.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17970, Health and Safety Code.

§ 110. Special Inspections.

Additional inspections may be conducted under the following circumstances: An inspection may be conducted where there is a reasonable expectation that the footing will be subjected to serious vertical or lateral movement due to unstable soil conditions; or the application indicates that interior wall coverings or construction elements will conceal underlying construction, electrical or mechanical systems; or where an unconventional construction method is indicated which would preclude examination at a single inspection.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17970, 17953, 17954 and 17955, Health and Safety Code.

§ 112. Inspection Waivers.

Inspections may be waived by the enforcement agency for structures which do not contain electrical or mechanical installations or for alterations, additions, modifications, or repairs that do not involve electrical or mechanical installations; or where the applicant stipulates in writing that the work has been conducted in compliance with the permit application and the provisions of this article.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17970, Health and Safety Code.

§ 114. Inspection Requests and Notice.

It shall be the duty of the applicant to notify the enforcement agency that the construction is ready for inspection and to provide access to the premises. Inspections shall be requested by the applicant at least (48) hours in advance of the intended inspection. It shall be the duty of the enforcement agency to notify or inform the applicant of the day during which the inspection is to be conducted.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17970, Health and Safety Code.

§ 116. Certificate of Occupancy.

After the structure(s) is completed for occupancy and any inspections which have been required by the enforcing agency have been conducted, and work approved, the enforcement agency shall issue a Certificate of Occupancy for such dwelling(s) and appurtenant structure(s) which comply with the provisions of this article.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17958, Health and Safety Code.

§ 118. Temporary Occupancy.

The use and occupancy of a portion or portions of a dwelling or appurtenant structure prior to the completion of the entire structure shall be allowed, provided that approved sanitary facilities are available at the site and that the work completed does not create any condition to an extent that endangers life, health or safety of the public or occupants. The occupants of any such uncompleted structure shall assume sole responsibility for the occupancy of the structure or portion thereof.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17921, Health and Safety Code.

§ 120. Fees.

Fees may be required and collected by the enforcement agency to provide for the cost of administering the provisions of this article. It is the intent of this article that permit and inspection fee schedules be established to reflect the actual inspection and administrative costs resulting from the application of this article.

NOTE: Authority cited: Sections 17003.5, 17921, 17952(b), 50061.5 and 50559, Health and Safety Code. Reference: Sections 17951 and 17952(b), Health and Safety Code.

§ 122. General Requirements.

(a) Each structure shall be constructed in accordance with applicable requirements contained in Subchapter 2–12, Title 24, California Code of Regulations.

(b) Each structure shall be maintained in a sound structural condition to be safe, sanitary, and to shelter the occupants from the elements.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921 and 17922, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending subsection (a) filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 124. Intent of General Requirements.

It shall be the purpose and intent of this article to permit the use of ingenuity and preferences of the builder, and to allow and facilitate the use of alternatives to the specifications prescribed by the uniform technical codes to the extent that a reasonable degree of health and safety is provided by such alternatives, and that the materials, methods of construction, and structural integrity of the structure shall perform in application for the purpose intended. To provide for the application of this article, it shall be necessary for the enforcement agency to exercise reasonable judgment in determining the compliance of appropriate structures with the general and specific requirements of this article.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Sections 17921 and 17923, Health and Safety Code.

§ 126. Technical Codes to Be a Basis of Approval.

Except as otherwise required by this article, dwellings and appurtenant structures constructed pursuant to this part need not conform with the construction requirements prescribed by the latest applicable editions of the Uniform Building, Plumbing, and Mechanical Codes, the National Electrical Code, or other applicable technical codes; however, it is not the intent of this section to disregard nationally accepted technical and scientific principles relating to design, materials, methods of construction, and structural requirements for the erection and construction of dwelling and appurtenant structures as are contained in the uniform technical codes. Such codes shall be a basis for approval.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17922, Health and Safety Code.

§ 128. Mechanical Requirements.

Fireplaces, heating and cooking appliances, and gas piping installed in buildings constructed pursuant to this article, shall be installed and vented in accordance with the applicable requirements contained in the California Mechanical Code, Part 4, Title 24, California Code of Regulations.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17922, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 130. Electrical Requirements.

No dwelling or appurtenant structure constructed pursuant to this article shall be required to be connected to a source of electrical power, or wired, or otherwise fitted for electrification, except as set forth in Section 132.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17922, Health and Safety Code.

§ 132. Installation Requirements.

Where electrical wiring or appliances are installed, the installation shall be in accordance with the applicable requirements contained in the California Electrical Code, Part 3, Title 24, California Code of Regulations.

Exceptions to Installation Requirements. In structures where electrical usage is confined to one or more rooms of a structure, the remainder of the structure shall not be required to be wired or otherwise fitted for electrification unless the enforcement agency determines the electrical demands are expected to exceed the confinement and capacity of that room(s). In these instances, the enforcement agency may require further electrification of the structure.

It is the intent of this subsection to apply to buildings in which there exists a workshop, kitchen, or other single room which may require electrification, and where there is no expectation of further electrical demand. The enforcement agency shall, at the time of a permit application or other appropriate point, advise the applicant of the potential hazards of violating this section.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17922, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

§ 134. Plumbing Requirements.

Plumbing equipment and installation shall be in accordance with the applicable requirements contained in the California Plumbing Code, Part 5, Title 24, California Code of Regulations applicable to the construction of limited density owner–built rural dwellings.

NOTE: Authority cited: Sections 17003.5, 17921, 50061.5 and 50559, Health and Safety Code. Reference: Section 17922, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 6–23–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 26).

Subchapter 2. Earthquake Protection Law Regulations

§ 500. Administration and Enforcement Fees.

General. The Earthquake Protection Law is set forth in the Health and Safety Code, Division 13, Part 3 (Sections 19100–19170). Any person submitting an application for a permit to construct shall pay appropriate fees as set forth in Section 20 of Title 25, Part 1, Chapter 1, Subchapter 2, California Administrative Code.

NOTE: Authority cited: Section 50559, Health and Safety Code. Reference: Section 17921, Health and Safety Code (State Housing Law) and Sections 19124 and 19132.5, Health and Safety Code.

HISTORY

1. New subchapter filed 7–24–70 as an emergency; effective upon filing (Register 70, No. 30).
2. Certificate of Compliance—Government Code Section 11422.1, filed 11–9–70 (Register 70, No. 46).
3. Amendment and renumbering of Section 1210 to Section 500 filed 8–27–80 as procedural and organizational; effective upon filing (Register 80, No. 35).
4. Amendment filed 11–25–80 as procedural and organizational; effective upon filing (Register 80, No. 48).

Subchapter 3. Employee Housing*

*Employee Housing Regulations (formerly Chapter 2, Sections 2000–2098, not consecutive) were repealed and adopted in amended form as Chapter 1, Subchapter 3 (Sections 600–940, not consecutive, and Appendix A). The numbering will appear out of sequence in Chapter 1 until later revisions in Title 25.

Article 1. Application and Scope

§ 600. Application and Scope.

(a) Application and scope of this subchapter is governed by Sections 17020, 17021, 17023 and 17024 of the Health and Safety Code.

(b) The provisions of this subchapter do not apply to backstretch housing or living quarters provided at race tracks for persons engaged in the training or care of race horses.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Sections 17020, 17021, 17023 and 17024, Health and Safety Code.

HISTORY

1. New Subchapter 3 (§§ 1300, 1302, 1304) filed 12–3–70; effective thirtieth day thereafter (Register 70, No. 49).
2. Repealer of Subchapter 3 (§§ 1300, 1302, 1304) filed 2–4–77 as procedural and organizational; effective upon filing (Register 77, No. 6). For prior history, see Register 75, No. 23.
3. New Subchapter 3 (Sections 600–940, not consecutive, and Appendix A) filed 3–14–78 (formerly Chapter 2, Sections 2000–2098, not consecutive); effective thirtieth day thereafter (Register 78, No. 11). Approved by the Building Standards Commission 12–12–77. For prior history see Register 71, No. 6; Registers 73, No. 4, No. 17, No. 25 and No. 34; Registers 75, No. 3, No. 23, No. 30, and No. 48; and Register 77, No. 5.
4. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.

5. Editorial correction repealing Article 1 (Sections 600–604, not consecutive) and adding new Article 1 (Section 600) filed 11–18–82 (Register 82, No. 47).

Article 2. Definitions

§ 610. Definitions.

The definitions applicable to this subchapter in addition to those set forth in Sections 17003–17012 of the Health and Safety Code and in Title 24, Parts 2, 3, 4 and 5, California Administrative Code are as follows:

Agricultural Employer. An "agricultural employer" as defined in Section 1140.4 of the Labor Code.

Dairy Labor Camp. A labor camp eligible for an exemption pursuant to Section 17031 of the Health and Safety Code.

Employee Community Housing. Employee housing eligible for an exemption pursuant to Sections 17005.5 and 17031.3 of the Health and Safety Code.

Labor Camp. In addition to the provisions of Health and Safety Code Section 17008, a "Labor Camp" shall include but is not limited to that portion or unit of any housing accommodation or structure which is occupied on a temporary, seasonal, or permanent basis by a total of five (5) or more agricultural workers of any agricultural employer or employers, whether or not such an accommodation or structure is maintained in connection with any work or workplace. Only those dwelling units in an accommodation or structure which, when taken together, are occupied by the five or more employees of any agricultural employer or employers are subject to this subchapter. To the extent that an accommodation or structure containing one or more units subject to this subchapter is also held out for hire to the public, and is therefore generally subject to the State Housing Law (Health and Safety Code Section 17910, et seq.), the units occupied by the five or more employees of any agricultural employer or employers shall be subject to this subchapter; however, if the existence or absence of a particular condition directly or indirectly affects any other tenant of the same structure or accommodation and would be a violation of the State Housing Law, all the units subject to this subchapter shall be subject to the standards of the State Housing Law for the purposes of the existence or absence of that condition.

Mess Hall Kitchen. A room or portion of a room used or intended to be used as a kitchen in conjunction with a mess hall.

NOTE: Authority cited: Sections 17003.5 and 17050, Health and Safety Code. Reference: Sections 17005.5, 17008, 17031 and 17040, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction filed 11–18–82 (Register 82, No. 47).
4. Amendment filed 3–6–85; effective thirtieth day thereafter (Register 85, No. 10).
5. Amendment filed 8–7–86; effective thirtieth day thereafter (Register 86, No. 32).

Article 3. Administration and Enforcement

§ 620. Enforcement.

Enforcement of this subchapter shall be governed by Sections 17050, 17051 and 17052 of the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Sections 17050, 17051 and 17052, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 621. Local Assumption of Enforcement Responsibility.

(a) The assumption of responsibility for the enforcement of the Employee Housing Act and the provisions of this subchapter by a city, county, or city and county shall be by means of any official ordinance, resolution or minute order of the city council or board of supervisors which shall contain the following information:

(1) The indication of request for assumption of responsibility for the enforcement of the Employee Housing Act and this subchapter.

(2) The name of the agency, department or departments designated responsibility for administration and enforcement.

(3) The effective date desired for assumption of enforcement responsibilities.

(4) The fee schedule to be used by enforcement agency.

(b) Two certified copies of the ordinance, resolution or minute order shall be forwarded to the department not less than 180 days prior to the

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date of desired assumption of enforcement responsibility in order to facilitate the qualification of the appointed enforcement agency. Said assumption date shall be designated as either January 1 or July 1 following the notification and the approval by the department.

(c) The department shall acknowledge receipt of the request for assumption of enforcement responsibility and shall advise the local enforcement agency to apply for the approval.

(d) Prior to approval, the personnel designated to perform labor camp or employee community housing inspections shall demonstrate actual inspection capabilities to the satisfaction of the department.

(e) The department shall advise the local jurisdictions of the accepted effective date upon the approval of the inspection personnel. The department will forward to the local jurisdiction a list of all the labor camps and employee community housing with permits to operate on the effective date together with the inspection reports and the pertinent data as required.

(f) Every city, county, or city and county which has been approved by the department for the enforcement of the Employee Housing Act, shall enforce all of the provisions of this subchapter.

(g) Every city, county, or city and county which assumes responsibility for enforcement of the Employee Housing Act shall comply with all of the provisions of chapter 5.5 of this division, beginning with section 5802, regarding verification of the eligibility of applicants for permits to operate labor camps to receive public benefits.

(h) All local enforcement agencies shall be evaluated by the department annually.

(i) The department may revoke its approval of a local enforcement agency for cause.

NOTE: Authority cited: Sections 17003.5 and 17050, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Section 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of subsections (a) and (f) filed 11–18–82 (Register 82, No. 47).
3. New subsection (g), subsection relettering and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
4. New subsection (g), subsection relettering and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8–4–98 order transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 623. Filing of Complaints.

(a) The provisions of this subchapter for filing complaints are governed by Sections 17053, 17054, and 17055 of the Health and Safety Code.

(b) A copy of all complaints received by a local enforcement agency shall be submitted to the Department of Housing and Community Development, Division of Codes and Standards, at its administrative office. The copies of all written reports issued on all complaints will also be submitted to the department until the complaint is resolved.

NOTE: The final appeal authority when the appeal relates to a building standard is the State Building Standards Commission. Section 18945, Health and Safety Code.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Sections 17053, 17054 and 17055, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 624. Information Notice.

(a) An appropriate notice in English and Spanish, prepared by the department, shall be posted in all occupied labor camps or employee community housing.

(b) The notice will outline the basic requirements of the Employee Housing Act which relate to maintenance, use and occupancy of a labor camp or employee community housing.

(c) The enforcement agency shall obtain the number of notices necessary from the department.

NOTE: Authority cited: Sections 17003.5, 17040 and 17050, Health and Safety Code. Reference: Sections 17040 and 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 625. Posting of Notices.

(a) The enforcement agency shall post such notice or require the camp or employee community housing operator to post such notice, in one or more conspicuous central locations accessible to the occupant housed within the labor camp or employee community housing.

(b) The notice shall include a notation prepared by the enforcement agency giving the following information.

(1) Name of enforcement official to contact.

(2) Name of the enforcement agency.

(3) Address of enforcement agency's office to be contacted.

(4) Telephone number for contacting the responsible agency personnel.

(c) The required notice shall remain posted during all periods in which the labor camp or employee community housing is occupied.

(d) A bulletin board securely attached to the wall or a suitable wall surface shall be designated for the purpose of posting required notices.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Sections 17040 and 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).
4. Amendment of subsection (a) filed 3–6–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 626. Operator's Responsibility.

(a) Every labor camp whether occupied or not, with a valid permit to operate or employee community housing shall comply with those portions of this subchapter specifically applicable to them except that portable equipment, which is actually moved or can easily be moved from one place to another in normal use, need not be maintained in an unoccupied labor camp.

(b) The person owning a labor camp or employee community housing shall also be considered to be the operator of a labor camp, even though the property and facilities comprising the labor camp or employee community housing may be leased to another person. A person is any individual, company, society, firm, partnership, association or corporation.

(c) Where a labor camp or employee community housing is located on property owned by any governmental agency, a lessee shall also be considered to be the operator of a labor camp or employee community housing if he or she has leased the property and facilities comprising the labor camp or employee community housing.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Sections 17036, 17040 and 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction filed 11–18–82 (Register 82, No. 47).
4. Amendment of section heading filed 3–6–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 627. Responsible Person.

The name, address and telephone number of the responsible person as set forth in Section 17038 of the Health and Safety Code shall be posted in a conspicuous place on the premises if he or she does not reside on or is not available on the premises.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17038, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 628. Occupant's Responsibility.

Every occupant of a labor camp or employee community housing shall properly use the facilities furnished and shall comply with the relevant maintenance and sanitation provisions of this subchapter.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).
4. Amendment filed 3–6–85; effective thirtieth day thereafter (Register 85, No. 10).

Article 4. Permits and Fees and Compliance

Subarticle 1.

§ 631. Application for a Permit to Operate a Labor Camp.

(a) Application for a permit to operate a labor camp shall be made to the enforcement agency at least 45 days prior to the date of initial occupancy and shall be on the forms supplied by the enforcement agency and shall contain at least the following information:

(1) The name and address and telephone numbers of the camp owner and operator.

(2) The location of the camp.

(3) Approximate number of occupants to be housed.

(4) A description of the facilities comprising the camp.

(5) Approximate dates of occupancy.

The operator shall obtain an amended permit to operate when there is any change in the foregoing information applicable to the labor camp.

(b) The provisions of Section 17032 shall not apply to labor camps owned or operated by railroad corporations. Application for a permit to operate a labor camp owned or operated by a railroad corporation shall be made to the Department of Housing and Community Development within 30 days of initial occupancy and shall contain at least the following information:

(1) The name and address and telephone numbers of the camp owner and operator.

(2) The present location of the camp.

(3) The present approximate number of occupants to be housed.

(4) A description of the present facilities comprising the camp.

(5) Approximate dates of present occupancy. An amended permit shall not be required if there is any change in the foregoing information applicable to the railroad labor camp, provided, however, the railroad corporation shall make such information available to the department upon reasonable request.

(c) Every application shall be accompanied by evidence of compliance with all local planning requirements. For the purposes of this section, labor camps having a permit to operate for the preceding year, or registered in accordance with the provisions of the Health and Safety Code in effect prior to January 1, 1975, shall be deemed to comply with the local planning requirements.

(d) Application forms, permits to operate, and amended permits to operate issued by a local enforcement agency shall be in conformity with state applications and permits. Whenever a local enforcement agency issues a permit to operate, a copy of the application and permit shall be sent to the Department of Housing and Community Development, Division of Codes and Standards, at its administrative office, by the 10th day of the month following the issuance of the permit to operate.

(e) Permit to Operate. Every person intending to operate a labor camp for any period of time within any calendar year shall file an application and submit appropriate fees to the enforcement agency for a permit to operate at least 45 days prior to the date of initial occupancy.

(f) When applying for a permit, the applicant stipulates to acceptance of service of any notice or process at the address shown on the application or shall designate otherwise on the permit application.

(g) When applying for a permit, the applicant shall present to the enforcement agency documentation necessary to demonstrate the applicant's eligibility to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

(h) When emergency conditions make it necessary to provide emergency living facilities for the work crews, the person responsible for providing such housing shall notify the enforcement agency within five days after occupancy. Fees for the inspection of the emergency living facilities shall be paid as provided in Section 644 for reinspections.

(i) An application will not be deemed submitted until it is completed.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Sections 17032 and 17033, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).
3. New subsection (g), subsection relettering and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
4. New subsection (g), subsection relettering and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction restoring inadvertently omitted subsection (d) (Register 98, No. 34).
6. Certificate of Compliance as to 8–4–98 order, including amendment of subsection (g), transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 632. Permit to Operate.

HISTORY

1. Editorial correction repealing Section 632 filed 11–18–82 (Register 82, No. 47).

§ 633. Exemption for Employee Community Housing.

(a) An application for exemption for employee community housing shall be made to the enforcement agency at least 45 days prior to the date upon which the exemption is desired, and shall be granted by the enforcement agency pursuant to Section 17031.3 of the Health and Safety Code.

(b) An application for exemption accompanied by appropriate fees, as set forth in Section 637, shall be on the forms supplied by the enforcement agency and shall contain at least the following information:

(1) The name, address, and telephone numbers of the community owner and operator.

(2) The location of the employee housing community.

(3) Exact number of dwellings in the employee housing community.

(4) Designs of facilities comprising the employee housing community.

(5) Other information requested by the enforcement agency relevant to the granting or denial of an exemption pursuant to this section.

(c) The operator shall submit an amendment to the exemption application whenever there is any substantial or material change in the foregoing information applicable to the employee community housing.

(d) An application will not be deemed submitted until it is completed.

(e) When the exemption is granted by a local enforcement agency, the information required by Section 17031.4 shall be submitted to the Department within 30 days after the exemption is granted.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Sections 17031.3 and 17031.4, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 634. Exemption for Labor Camps on Dairy Farms.

(a) An application for exemption for a labor camp and dairy farm shall be made to the enforcement agency at least 45 days prior to the date of initial occupancy and shall be granted by the enforcement agency pursuant to Sections 17030 and 17031 of the Health and Safety Code.

(b) An application for an exemption, accompanied by appropriate fees shall be on forms supplied by the enforcement agency and shall contain at least the following information:

(1) The name, address, and telephone numbers of the permanent housing owner and operator.

(2) The location of the dairy farm labor camp.

(3) Exact number of dwellings on the labor camp.

(4) Designs of the facilities comprising the housing project.

(5) The year the dwellings on the labor camp were constructed.

(6) The number of years the labor camp was operated with a valid permit to operate.

(7) Other information requested by the enforcement agency including but not limited to information to ensure that the labor camp qualifies as a dairy farm labor camp pursuant to Sections 17019 and 17030 of the Health and Safety Code.

(c) An application will not be deemed submitted until it is completed.

(d) When the exemption is granted by a local enforcement agency, the information required by Section 17031 shall be submitted to the Department within 30 days after the exemption is granted.

(e) The operator shall submit an amendment to the exemption application whenever there is any change in the foregoing information applicable to the dairy farm labor camp.

(f) The written findings required by Section 17031 of the Health and Safety Code shall be filed in the project record and shall be retained until the exemption is revoked.

NOTE: Authority cited: Sections 17003.5, 17036, 1704 and 17050, Health and Safety Code. Reference: Sections 17030 and 17031, Health and Safety Code.

HISTORY

1. New section filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 636. Renewal Prohibited.

No permit to operate shall be issued for a labor camp when the permit to operate for the preceding year has been denied or suspended, or when the operator has failed to comply with a notice issued by the enforcement agency to correct the violations of the Health and Safety Code and of this subchapter. When the operator submits proof of compliance with the applicable provisions of the Health and Safety Code and this subchapter to the enforcement agency, the enforcement agency may issue a new permit to operate if all other terms and conditions for a permit are met

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Sections 17031, 17034 and 17036, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 637. Permit to Operate or Exemption Fees.

Every person applying for an exemption as employee community housing or a dairy farm labor camp or a permit to operate a labor camp shall submit fees for a permit to operate or exemption to the enforcement agency in accordance with the provisions of this section.

(a) Where the department is the enforcement agency, fees for a permit to operate a labor camp shall be determined as follows:

(1) Issuance fee of $35.00.

(2) Permit to operate fee of $12.00 for each employee the operator intends to house where such housing is supplied by the operator, and $12.00 for each lot or site provided for parking of mobile homes or recreational vehicles by employees.

(3) Amended permit fee of $20.00 for any transfer of ownership or possession.

(4) Amended permit fee of $20.00 and fees specified in this section for any increase in the number of employees to be housed and additional lots or sites provided for parking of mobile homes or recreational vehicles by employees.

(b) Where the department is the enforcement agency, fees for an exemption shall be determined as follows:

(1) Issuance fee of $35.00.

(2) An exemption fee of $12.00 for each permanent housing unit.

(3) Amended exemption fee of $20.00 for any transfer of ownership or possession.

(4) Amended permit fee of $20.00 and fees specified in this section for any increase in the number of permanent housing units.

(c) Where a city, county, or city and county has assumed responsibility for enforcement of Chapter 1 of Part 1 of Division 13 of the Health and Safety Code and this subchapter, such city, county, or city and county may by ordinance, establish a schedule of fees for the operation of labor camps or employee community housing which shall not exceed the fees for a permit to operate or exemption established by this section.

NOTE: Authority cited: Sections 17003.5 and 17036, Health and Safety Code. Reference: Section 17036, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 7–9–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 28).

§ 638. Compliance.

Every person, or his or her agent or officer thereof, constructing, operating, or maintaining a labor camp shall comply with the requirements of this part, building standards published in the State Building Standards Code relating to labor camps, and other regulations adopted pursuant to the provisions of this part. Every person or his or her agent or officer thereof, constructing, operating, or maintaining employee community housing shall comply with the State Housing Law and other regulations adopted pursuant to this subchapter specifically applicable to employee community housing.

The provisions contained in Section 17920.3 of the Health and Safety Code relating to a substandard building shall be applicable to this subchapter. Abatement of any substandard condition may be in accordance with Sections 17060 and 17890 of the Health and Safety Code or actions and proceedings as set forth in Article 6, commencing with Sections 50 through 72, of this Title, (State Housing Law Regulations).

NOTE: Authority cited: Sections 17003.5, 17037, 17040 and 17050, Health and Safety Code. Reference: Section 17037, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 639. Double Fees.

NOTE: Authority cited: Sections 17036, 17040, 17050, Health and Safety Code. Reference: Section 17037, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction repealing Section 639 filed 11–18–82 (Register 82, No. 47).

§ 640. Preoccupancy Inspection, Local Enforcement Agency.

Upon receipt of a complete application for a permit to operate or an exemption and appropriate fees, the local enforcement agency shall inspect the labor camp or employee community housing within 30 days. If upon inspection the labor camp or employee community housing is found to be in compliance with the applicable provisions of the Health and Safety Code and this subchapter, a permit to operate or exemption shall be issued by the local enforcement agency, as appropriate, if all other terms and conditions are met.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Sections 17003.5, 17030, 17031 and 17031.3, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).
3. Amendment filed 11–18–85; effective thirtieth day thereafter (Register 85, No. 47).

§ 641. Permit Application Review, Notice of Department Decision and Occupancy Approval.

(a) Where the department is the enforcement agency, the following procedures shall apply.

(1) Within seven (7) days of receiving the application for a permit to operate and appropriate fees in the office designated on the application forms, the department shall review each license application received pursuant to this chapter, and notify the applicant in writing of either the acceptance of the application for filing, or the rejection of the application due to incompleteness or errors, specifically identifying the incompleteness or errors and what must be done in order to make the application complete and acceptable.

(2) Unless the applicant requests otherwise, within 45 days of receiving a completed application for a permit to operate and appropriate fees, the department shall inspect the labor camp or employee housing. If upon inspection the labor camp or employee community housing is found to be in compliance with the applicable provisions of the Health and Safety Code and this subchapter, and if all local approvals have been obtained, the department shall issue a permit to operate within seven (7) days of the inspection.

(3) If the labor camp or employee community housing is not found to be in compliance or if all local approvals have not been obtained, it shall be the responsibility of the operator to request, in writing, any subsequent reinspections by the department.

(4) Within 30 days of receiving a written request for reinspection and appropriate fees, the department shall reinspect the labor camp or employee community housing. If upon reinspection the labor camp or employee community housing is found to be in compliance with the applicable provisions of the Health and Safety Code and this subchapter, and if all local approvals have been obtained, the department shall issue a permit to operate within seven (7) days of the reinspection.

(b) A survey conducted pursuant to Government Code Section 15376 of the department's performance determined the minimum, median and maximum elapsed time between receipt of a completed application for a permit to operate a labor camp and issuing the permit to operate a labor camp; the results are as follows:

(1) Minimum: 1 calendar day

(2) Median: 38 calendar days

(3) Maximum: 357 calendar days

(c) The department may exceed the maximum time as provided in subsection (a), if any of the following occurs:

(1) The number of applications is 15 percent greater than for the same calendar quarter of the preceding year.

(2) The department's application process is delayed due to rejection of the labor camp's kitchen facilities, water supply or sewage disposal by the local Department of Health.

(3) An applicant requests that an application, inspection or permit issuance be delayed.

NOTE: Authority cited: Section 15376, Government Code. Reference: Sections 15374–15378, Government Code; and Sections 17003.5 and 17036, Health and Safety Code.

HISTORY

1. New section filed 11–18–85; effective thirtieth day thereafter (Register 85, No. 47).

§ 642. Noncompliance.

In the event that the labor camp or employee community housing cannot be approved for occupancy or when inspected, the enforcement agency shall notify the applicant by means of a compliance order which describes in what respects the labor camp or employee community housing does not comply. The operator shall perform the required corrective work and request reinspection prior to occupying the labor camp or employee community housing. The operator shall pay the reinspection fees prescribed by these regulations.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Sections 17036, 17040 and 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 644. Reinspection Fees.

(a) The fees for a permit to operate or an exemption shall be considered as inspection fees for the initial inspection of an employee housing facility or employee community housing. When a reinspection is required, pursuant to Section 642 of this subchapter, the operator shall pay a reinspection fee for each such reinspection as follows:

(1) One hundred seventy–eight dollars ($178) providing the reinspection does not exceed one hour. When the reinspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Sections 17036, 17040 and 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Amendment of subsections (a) and (b) filed 7–9–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 28).
4. Amendment filed 12–9–88; operative 1–8–89 (Register 88, No. 52).
5. Amendment filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 645. Technical Service and Fees.

(a) The department may charge technical service fees to any person requesting technical services such as interpretation or clarification of the application of this subchapter if these services are beyond the scope of normal department technical assistance. Technical services for the purpose of this section do not include inspections.

(b) Requests for such service shall be submitted to the department in writing and accompanied by the technical service fee. The fees shall be determined as follows:

(1) One hundred ninety–six dollars ($196) providing the technical service does not exceed one hour. When the related technical service exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

(c) Fees shall be submitted by a cashier's check, money order, personal or company check, payable to the Department of Housing and Community Development.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Sections 17036, 17040 and 17050, Health and Safety Code.

HISTORY

1. New section filed 7–9–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 28).
2. Amendment of subsection (b) filed 12–9–88; operative 1–8–89 (Register 88, No. 52).
3. Amendment of subsection (b)(1), repealer of subsection (b)(2) and new subsections (b)(1)(A)–(B) filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 648. Multiple Year Permits to Operate.

(a) Application for a multiple year permit to operate a labor camp shall be made to the enforcement agency at least 45 days prior to the date of initial occupancy and shall be granted by the enforcement agency pursuant to Sections 17030 and 17030.5 of the Health and Safety Code.

(b) An application for a multiyear permit to operate accompanied by appropriate fees, as set forth in Section 637, shall be on forms supplied by the enforcement agency and shall contain at least the following information:

(1) The name, address, and telephone numbers of the permanent housing labor camp owner and operator.

(2) The location of the permanent housing labor camp.

(3) Exact number of single family detached dwellings.

(4) Designs of the facilities comprising the permanent housing labor camp.

(5) The year the dwellings on the labor camp were constructed.

(6) The number of years the labor camp has been operating with a valid permit to operate.

(7) Other information requested by the enforcement agency including but not limited to information to ensure that the permanent housing qualifies as a permanent housing labor camp pursuant to Section 17010(d) and 17030.5 of the Health and Safety Code.

(8) A maintenance plan that will adequately maintain the housing during the period of time covered by the permit to operate.

(c) When applying for a multiple year permit, the applicant shall present to the enforcement agency documentation necessary to demonstrate the applicant's eligibility to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

(d) An application will not be deemed submitted until it is completed.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Sections 17030, 17030.5 and 17040, Health and Safety Code.

HISTORY

1. Repealer filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. New section filed 5–23–80 as an emergency; effective upon filing (Register 80, No. 21). A Certificate of Compliance must be transmitted to OAH within 120 days or emergency language will be repealed on 9–21–80.
3. Certificate of Compliance filed 8–20–80 (Register 80, No. 34).
4. Editorial correction filed 11–18–82 (Register 82, No. 47).
5. New subsection (c), subsection relettering and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
6. New subsection (c), subsection relettering and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8–4–98 order, including amendment of subsection (c), transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 650. Conditional Permit to Operate or Exemption.

A conditional permit to operate may be issued to permit partial occupancy of complying portions of a labor camp only under the following conditions:

(a) After preoccupancy inspection, the camp operator will be issued a written compliance order listing all buildings not in compliance. A notice of prohibited occupancy shall be posted on any building deemed to be unsafe for human habitation or adjacent thereto if necessary, and shall be so noted in the report. The compliance order shall also list those buildings which are in compliance for which a conditional permit to operate may be issued.

(b) Any building in a labor camp that is not intended to be used, and so declared by the operator shall be noted in a written report, shall be secured by the operator, and shall be posted by the enforcement agency at each entrance to the building with a notice of prohibited occupancy.

(c) The conditional permit to operate or exemption shall not be required to include those buildings secured, posted, and declared by the operator not to be a part of the labor camp. The conditional permit to operate or exemption fee shall include all other housing, including that housing which may be listed as not to be occupied until compliance has been verified.

(d) The enforcement agency may issue a conditional permit to operate that portion of a labor camp complying with the provisions of this subchapter. The units approved for occupancy and the units not to be occupied until compliance has been verified shall be noted on the conditional permit to operate.

(e) When applying for a conditional permit, the applicant shall present to the enforcement agency documentation necessary to demonstrate the applicant's eligibility to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

(f) Upon reinspection and verification of compliance with the applicable provisions of the Health and Safety Code and this subchapter, a revised permit to operate or exemption shall be issued by the enforcement agency, without requiring an amended permit fee or exemption fee.

(g) There can be no conditional exemption. A dairy labor camp or a proposed employee community housing which is not fully in compliance with required standards may be issued a conditional permit to operate pursuant to this section.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Sections 17036 and 17040, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction filed 11–18–82 (Register 82, No. 47).
4. New subsection (e), subsection relettering and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
5. New subsection (e), subsection relettering and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8–4–98 order, including amendment of subsection (e), transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

Article 5. New Construction

§ 652. Construction Permits and Construction Requirements.

(a) No person shall construct, reconstruct, erect, install, relocate or alter any building used for human habitation, building accessory thereto, or other housing accommodations, intended to be used for employee housing or a labor camp, or employee community housing, or any electrical, mechanical, or plumbing equipment or installation in a labor camp

or employee community housing, without first obtaining a written construction permit from the local building department.

NOTE: Permits to construct and construction standards for other nonresidential buildings may be applicable pursuant to local ordinances in the jurisdiction in which the labor camp or employee community housing is located. Refer to Division 13, Part 3, Health and Safety Code relating to the Earthquake Protection Law primarily enforced by local agencies.

(b) Except as otherwise permitted or required by Division 13, Part 1.5 of the Health and Safety Code (State Housing Law), all buildings and structures in labor camps or employee community housing subject to the State Housing Law shall be constructed in accordance with the requirements contained in Parts 2, 3, 4 and 5, Title 24, California Administrative Codes.

(c) Construction permits for the installation of the facilities to accommodate mobile homes, recreational vehicles, commercial coaches, and campgrounds shall be obtained from the enforcement agency which has responsibility for the enforcement of the Mobile Home Parks Act, Division 13, Part 2.1, of the Health and Safety Code.

(d) The installation permits for mobile homes and commercial coaches, where required by the Mobile Home Parks Act, shall be obtained from the appropriate enforcement agency and an alternate approval shall be obtained from the department for the use of commercial coaches.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Sections 17036 and 17040, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 653. Alternate Approval.

(a) Alternate approval requirements for this subchapter shall be in accordance with Section 17002 of the Health and Safety Code.

(b) When an operator requests an alternate use of any material, appliance, installation, or device, the enforcement agency shall advise and obtain views of the employees on the premises at the time. A synopsis of these views shall be submitted with the request for alternate approval.

NOTE: Authority cited: Sections 17003.5, 17040 and 17050, Health and Safety Code. Reference: Sections 17002, 17040 and 17041, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 654. Construction Permit Fees.

(a) Every person obtaining a construction permit shall pay the fees prescribed for such permits by local ordinance where the local ordinance is applicable.

(b) Where a local ordinance does not apply, construction permit fees shall be determined in accordance with the schedule of fees in Title 25, California Administrative Code, Chapter 1, Subchapter 1, State Housing Law Regulations, and paid to the department.

(c) Construction permit fees for the installation of facilities to accommodate mobile homes shall be determined in accordance with the schedule of fees in Title 25, California Administrative Code, Chapter 2, Subchapters 1 and 2 and paid to the appropriate enforcement agency.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Sections 17040 and 17041, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 655. Heat.

Shower rooms shall be provided with heating equipment which shall be capable of maintaining a temperature of 70°F (21.0° Celsius) within such rooms.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 658. Tents.

NOTE: Authority cited: Sections 17036, 17040, 17050, Health and Safety Code. Reference: Sections 17036, 17040, 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction repealing Section 658 filed 11–18–82 (Register 82, No. 47).

§ 660. Substandard Buildings.

NOTE: Authority cited: Sections 17036, 17040, 17050, Health and Safety Code. Reference: Sections 17036, 17040, 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–0.
2. Editorial correction repealing Section 660 filed 11–18–82 (Register 82, No. 47).

§ 662. Window Screening.

HISTORY

1. Editorial correction repealing Section 662 filed 11–18–82 (Register 82, No. 47).

§ 664. Door Screening.

HISTORY

1. Editorial correction repealing Section 664 filed 11–18–82 (Register 82, No. 47).

Article 6. Maintenance, Use and Occupancy

Subarticle 1. Area Requirements

§ 700. Drainage.

The premises shall be free from depressions in which water can stand. Natural sinkholes, pools, swamps or other surface collectors of water within two hundred feet (60.9 meters) of the periphery of the camp shall be either drained or filled to remove the quiescent surface water. Areas such as irrigation drain ditches, etc., containing water not subject to such drainage or filling shall be treated to prevent the breeding of mosquitoes, vermin or vectors as approved by the local health department or other authorized agency.

NOTE: Authority cited: Sections 17003.5, 17040 and 17050, Health and Safety Code. Reference: Sections 17040 and 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 702. Livestock.

Domestic animals and poultry shall not be permitted to run at large in any labor camp.

NOTE: Authority cited: Sections 17003.5, 17040 and 17050, Health and Safety Code. Reference: Sections 17040 and 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 704. Structures.

(a) General. Structures, mobile homes, travel trailers, camp cars, coaches, and other housing accommodations shall be maintained so as to provide shelter to the occupants against the elements and to exclude dampness and shall be kept clean and free from vermin, vectors and other matter of an infectious or contagious nature. The entire grounds within the area of a labor camp subject to this subchapter shall be kept clean and free from accumulation of debris, filth, garbage and deleterious matter.

(b) Location. Structures, mobile homes, travel trailers, camp cars, tents, commercial coaches and other housing accommodations shall be

maintained not less than seventy–five feet (22.8 meters) from barns, pens or similar quarters of livestock or poultry, unless more restrictively regulated by local jurisdictions.

NOTE: Authority cited: Sections 17003.5, 17040 and 17050, Health and Safety Code. Reference: Sections 17036, 17040 and 17050, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction of subsection (b) filed 11–18–82 (Register 82, No. 47).

Subarticle 2. Building and Structure Requirements

§ 708. Employee Community Housing.

Except as amended by a local government, employee community housing shall be subject to the State Housing Law.

NOTE: Authority cited: Sections 17003.5, 17040 and 17050, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. New section filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 710. Maintenance.

All labor camp buildings, structures, or other housing accommodations and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which were required in a building or structure when erected, altered, or repaired shall be maintained in good working order.

NOTE: Authority cited: Sections 17003.5, 17040 and 17050, Health and Safety Code. Reference: Sections 17040 and 17050, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction of section heading and NOTE filed 11–18–82 (Register 82, No. 47).

§ 712. Buildings Identified.

All buildings and other housing accommodations used for habitation in a labor camp shall be numbered or designated by street numbers or other suitable means of identification. The identification shall be in a conspicuous location facing the street or driveway and shall be in letters or numbers at least 3 inches (7.6 centimeters) high.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

[The next page is 17.]

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 714. Windows.

HISTORY

1. Editorial correction repealing Section 714 filed 11–18–82 (Register 82, No. 47).

§ 720. Exit Way Lighting.

HISTORY

1. Editorial correction repealing Section 720 filed 11–18–82 (Register 82, No. 47).

§ 722. Exits.

The exit facilities for all buildings or portions thereof in labor camps shall be maintained clear and unobstructed at all times.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 724. Floor Area.

The rooms or areas used for sleeping purposes for more than one person shall be maintained with a floor area of not less than fifty (50) square feet (4.5 square meters) for each occupant and a minimum average ceiling height of not less than seven feet (2.1 meters).

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 728. Insect Screening.

(a) All openable windows in rooms used for living, dining, cooking, and sleeping purposes, and bathing and toilet facilities shall be properly maintained with insect screening.

(b) All exterior door openings of rooms used for living, dining, cooking, and sleeping purposes, and bathing and toilet facilities shall be properly maintained with insect screen doors or with solid wood doors, and self–closing devices on such doors shall be maintained to function properly.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 730. Sleeping Rooms.

The sleeping rooms shall be provided for all occupants; provided, however, that where occupants furnish their own camping equipment, mobile homes, or recreational vehicles, the operator shall provide an approved site, sanitary, utility and/or cooking facilities as required by this subchapter for the use of such occupants.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).
2. Amendment filed 3–6–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 732. Beds and Bedding.

(a) Beds. Suitable and separate beds shall be maintained for all occupants. Such beds shall be made of steel, canvas or other material acceptable to the enforcement agency and shall be so constructed as to afford reasonable comfort to the occupants. Such beds shall be maintained in a clean and sanitary condition, but need not be maintained in an unoccupied labor camp.

(b) Bedding. An occupant, upon his or her request, shall be supplied with a mattress or some equally comfortable bedding for which a reasonable charge, deductible from wages, may be made. Such bedding shall be maintained in a clean and sanitary condition.

(c) Bed Separation.

(1) Every bed shall have a clear space of at least ten inches (25.4 centimeters) from the floor to the underside of the bed.

(2) A clear space of at least thirty inches (76.2 centimeters) extending from the floor to the ceiling or roof of any sleeping place shall be maintained horizontally between each bed therein.

(3) At least four feet (121.9 centimeters) of clear space shall be maintained horizontally between each set of double deck beds having one tier above the other.

(4) There shall be not more than two tiers of beds, one above the other. There shall be a clear vertical space of 30 inches (76.2 centimeters) maintained between the upper and lower bed.

(d) Bed Use. The beds located closer than required separations shall be maintained to be separated by a solid partition with a minimum of 10 inches (25.4 centimeters) clearance from the floor, 18 inches (45.7 centimeters) below the ceiling, and 24 inches (60.9 centimeters) above the topmost bed.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction filed 11–18–82 (Register 82, No. 47).
3. Amendment of subsections (a) and (b) filed 3–6–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 734. Prohibited Room Use.

Kitchens and mess halls shall not be used for sleeping purposes.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

Subarticle 3. Kitchens and Mess Halls

§ 736. Community Kitchens.

(a) Where occupants are permitted or required to cook for themselves, other than in a dwelling unit, mobile home, or recreational vehicle with a separate kitchen, a separate room shall be maintained and equipped for use as a community kitchen.

(b) Refrigeration. Provision shall be made for safe storage of food. Refrigerated storage shall be provided which shall be capable of maintaining a temperature of 45°F (7.2° Celsius) or below.

(c) Dishware and utensils used for food service shall be permanently assigned to each occupant using the community kitchen and shall be disinfected in an approved manner prior to reassignment to another occupant.

(d) Sufficient shelving space shall be maintained and assigned each occupant, in or near the community kitchen, to store food supplies and utensils off the floor. Metal containers or other approved containers with tight fitting lids shall be maintained and provided for the storage of open bulk food supplies.

(e) The floors, walls, ceilings, tables, shelves, and countertops shall be maintained in a clean and sanitary condition. Floors, tables, drainboards, and countertops shall be maintained with cleanable materials impervious to moisture.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction of subsections (b) and (d) filed 11–18–82 (Register 82, No. 47).
2. Amendment of subsection (e) filed 3–15–83 (Register 83, No. 12).
3. Amendment of subsections (a) and (d) filed 3–6–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 738. Mess Halls and Mess Hall Kitchens.

Mess halls, mess hall kitchen, and food handlers shall comply with the sanitation requirements of the California Health and Safety Code, Division 22, Chapter 11, California Restaurant Act, as applicable. A certificate of approval issued by the Local Health Department shall be required by the enforcement agency.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 740. Kitchens and Mess Hall Maintenance.

(a) Utensils. All utensils and implements in which food is prepared or kept or from which food is to be eaten, shall be kept in a clean, unbroken and sanitary condition.

(b) Equipment. The floors, walls, ceilings, tables and shelves of all kitchens, dining rooms, refrigerators and food storage rooms shall be maintained in a clean and sanitary condition. Floors, tables, drainboards, and countertops shall be maintained with cleanable materials impervious to moisture.

(c) Shelves and Containers. Sufficient shelving shall be maintained in or near the kitchen or mess hall kitchen to store all food supplies at least six (6) inches (15.2 centimeters) above the floor. Metal or other approved containers with tight–fitting covers shall be provided for the storage of all opened or unopened bulk food supplies.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction of subsections (b) and (c) filed 11–18–82 (Register 82, No. 47).
2. Amendment filed 3–15–83; effective thirtieth day thereafter (Register 83, No. 12).

§ 742. Garbage, Waste and Rubbish Disposal.

All garbage, kitchen waste and rubbish shall be deposited in approved covered receptacles which shall be emptied when filled and the contents shall be disposed of in a sanitary manner acceptable to the enforcement agency.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

Subarticle 4. Fire Equipment and Hazards

§ 744. Fire Extinguishers and Fire Extinguishing Systems.

Fire extinguishers shall comply with the requirements of the State Fire Marshal contained in Title 19, California Administrative Code.

(a) Mess Hall Kitchens. Approved Class B–C type fire extinguishers providing not less than 20 units of extinguishing capacity shall be maintained in each mess hall kitchen.

(b) Dormitories. Approved Class A type fire extinguishers providing not less than two units of extinguishing capacity shall be maintained for each 5,000 square feet (450 square meters) of floor area or portion thereof of any dormitory building.

(c) Equipment. All fire extinguishing systems and equipment shall be adequately maintained to insure their operability in an emergency.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 746. Fire Hazards.

No article or material the enforcement agency determines may be dangerous or create a fire hazard, shall be maintained in or on the premises of a labor camp.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

Subarticle 5. Plumbing Systems

§ 756. Use and Maintenance.

Any existing plumbing system may have its use, maintenance and repair continued if the use, maintenance or repair is in accordance with the original design and location and no hazard to the public health, safety, or welfare has been created by such system.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 758. Safeguards.

The plumbing system, all fixtures, equipment, devices and safeguards shall be clean and maintained in good working order.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 760. Toilet and Bathing Facilities.

(a) An employee housing site first issued a permit to operate prior to February 22, 1973, shall provide one toilet and one bathing facility for every fifteen occupants of each sex.

(1) Each employee housing site shall consist of all accommodations used as specified in Health and Safety Code section 17008.

(2) When calculating this ratio, do not include the following:

(A) a living unit with built–in toilet and bathing facilities, which is occupied by a single family, and

(B) any sleeping area that is not in compliance with the requirements of subdivision (d).

(b) An employee site first issued a permit to operate on or after February 22, 1973, shall provide toilet and bathing facilities for each sex at a ratio not to exceed ten occupants for each toilet and each bathing facility.

(1) Each employee housing site shall consist of all accommodations used as specified in Health and Safety Code section 17008.

(2) When calculating this ratio, do not include the following:

(A) a living unit with built–in toilet and bathing facilities, which is occupied by a single family, and

(B) any sleeping area that is not in compliance with the requirements of subdivision (d).

(c) An enforcement agency may permit different types and ratios of toilet and bathing facilities in temporary and seasonal employee housing, when written approval for each specific type and ratio is provided by the local health officer. The written approval shall be based upon a finding that the type and ratio of toilet and bathing facilities are sufficient to process the anticipated volume of sewage and waste water, while maintaining sanitary conditions for the occupants of the employee housing.

(d) Toilet and bathing facilities that are counted toward the ratio, as required by subdivisions (a) or (b), shall be located as follows:

(1) Toilet and bathing facilities for temporary and seasonal employee housing, that are not connected to a permanent sewage disposal system, shall be located no closer than fifty (50) feet (15 meters), or more than two hundred (200) feet (61 meters) from sleeping, eating, and/or food preparation areas.

(2) Toilet and bathing facilities discharging to a permanent sewage disposal system shall be located no further than two hundred (200) feet (61 meters) from sleeping, eating, and/or food preparation areas.

(e) Shower wall areas shall be maintained in a cleanable, noncorrosive, and waterproof condition to a height not less than six (6) feet (1.8 meters) above the drain outlet.

(f) The floor of the shower compartment shall slope uniformly to the drain, and the joint around the drain outlet shall be maintained in a water-tight condition.

(g) If urinals are installed in a toilet room designated for men only, a single urinal shall substitute for no more than one of every three required toilets.

(h) The floor space to a point one (1) foot (.305 meters) in front of a urinal lip and the wall to a point four (4) feet (1.2 meters) above the floor and at least one (1) foot (.305 meters) to each side of the urinal shall be maintained in a cleanable, noncorrosive, and waterproof condition.

NOTE: Authority cited: Sections 17040(a) and 17050(a), Health and Safety Code. Reference: Sections 17021, 17040(a) and 17041(a), Health and Safety Code.

HISTORY

1. Amendment filed 12-31-79 as an emergency; designated effective 1-1-80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5-1-80.
2. Amendment filed 4-28-80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction filed 11-18-82 (Register 82, No. 47).
4. Amendment of section heading, text and NOTE filed 9-2-93 as an emergency; operative 9-2-93 (Register 93, No. 36). A Certificate of Compliance must be transmitted to OAL by 12-31-93 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 1-12-94 order including amendment of subsections (b), (d)(1) and (d)(2) transmitted to OAL 12-1-93 and filed 1-12-94 (Register 94, No. 2).

§ 762. Identification.

Toilets and bathing facilities shall be identified clearly marked for "MEN" or "WOMEN." The use of the proper symbols will be permitted.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11-18-82 (Register 82, No. 47).

§ 764. Toilet and Bathing Separations.

Existing toilet and bathing facilities shall be maintained in a separate room or building.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 766. Lavatories.

(a) Prior Installations for Single Persons. Labor camps constructed, altered, or converted prior to February 22, 1973, which required one (1) lavatory for each thirty (30) occupants need not be changed. Where troughs were used, every twenty-four (24) inches (60.9 centimeters) of trough was considered equal to one (1) lavatory.

(b) Materials. The handwashing facilities shall be maintained and lined with waterproof material.

(c) Location. Lavatories shall be maintained adjacent to toilet facilities.

NOTE: Present Installations. Labor camps constructed, altered, or converted after February 22, 1973, shall provide at least one lavatory for each 10 occupants for each sex.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Amendment filed 12-31-79 as an emergency; designated effective 1-1-80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5-1-80.
2. Editorial correction filed 11-18-82 (Register 82, No. 47).
3. Amendment of subsection (b) filed 3-15-83; effective thirtieth day thereafter (Register 83, No. 12).

§ 768. Clothes Washing Machine.

Clothes washing machines shall be maintained to drain either into a properly vented trap, into a laundry tub tailpiece with watertight connections, into an open standpipe receptor or over the rim of a laundry tub or waste water may be disposed of using a method approved by the local health department.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 770. Water Supply.

(a) The water supply system shall be maintained to provide the capacity required at the time the system was installed.

(b) The distribution lines shall be maintained leak free and capable of supplying the normal operating pressure to all fixtures.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11-18-82 (Register 82, No. 47).

§ 772. Drinking Water.

(a) Potability. Potable drinking water shall be maintained for all employees.

(b) Tests. A water sample from the camp's supply shall be collected by the local health department for examination and their approval prior to the initial operation of the camp each year, when any major repair to or alteration of the water supply system has been made, or when the purity of the water is questioned by the enforcement agency. Approval of the results of the test shall be a requirement of occupancy.

(c) Availability. All exterior water supply faucets shall be suitably and conveniently placed and drainage shall not be allowed to flow upon the ground or to contaminate the source of water supply.

(d) Storage. Tanks or other receptacles used for the storage of water shall be maintained in a clean and sanitary condition and shall be covered so as to prevent contamination.

(e) Drinking Cups. The use of a common drinking cup is prohibited.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Sections 17021 and 17040, Health and Safety Code.

HISTORY

1. Amendment filed 12-31-79 as an emergency; designated effective 1-1-80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5-1-80.
2. Amendment filed 4-28-80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 774. Back Siphonage.

Any water closet or other plumbing fixture shall be maintained to prevent siphonage of water back into the water supply.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 784. Sewage Disposal System.

The underground sewage disposal system shall be maintained covered to remain insect and rodent tight. Waste liquids shall not be permitted to surface or pond.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Sections 17021 and 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 786. Underground Sewage Tanks.

Underground septic tanks shall be maintained to be safe and structurally sound.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Sections 17021 and 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11-18-82 (Register 82, No. 47).

§ 788. Trap and Vent Maintenance.

Traps and vents shall be maintained in good working order and all connections shall be water tight.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 790. Drain Inlet Cap.

Open drain piping connection inlets shall be capped when not in use.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 792. Sanitary Drain Connection.

Drain lines from all buildings and other housing accommodations in a labor camp shall be maintained in good working order and the connections to the sewage disposal system shall be water tight.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

Subarticle 6. Mechanical Systems

§ 800. Heat.

In temporary and seasonal labor camps heating equipment is not required, except in shower rooms, unless it is found to be necessary in order to maintain a minimum mean temperature of seventy (70) degrees Fahrenheit (21.0 Celsius) during the period of occupancy. Official weather reports should be used to determine temperatures in any area.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 802. Mechanical Use.

Heating, ventilating, cooling and refrigeration systems and appliances installed may have their existing use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and location is not hazardous to life, health, and property.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 804. Maintenance.

All mechanical equipment, devices, and safeguards shall be maintained in good working order.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 806. Location of Liquefied Petroleum Gas Tanks.

(a) No tank or cylinder shall be maintained within an enclosed housing accommodation, nor within five (5) feet (1.5 meters) of a source of ignition, nor with the outlet less than five (5) feet (1.5 meters) away from any building opening which is below the level of such outlet.

(b) No tank or cylinder shall be maintained or stored beneath any shed, structure, mobile home, recreational vehicle, commercial coach, or other housing accommodation in a labor camp.

(c) Tanks shall be maintained to be separated from the nearest building, structure, mobile home, recreational vehicle, commercial coach or other housing accommodations with a minimum clearance of ten (10) feet (3 meters) for tanks with a capacity of 61 to 576 gallons (230.5 to 2177.2 liters) and twenty–five (25) feet (7.5 meters) minimum clearance for tanks with a capacity of 576 to 2000 gallons (2177.2 to 7560 liters).

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 808. Tank Protection.

L.P. Gas tanks located adjacent to driveways and parking areas shall be maintained to prevent mechanical damage.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 810. Warning Signs.

No smoking warning sign(s) shall be maintained at all L.P. Gas tank locations.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 812. Tank Support.

All L.P. Gas tanks shall be maintained on a firm pad or foundation.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 814. Prohibited Use of Connectors.

Existing gas supply tubing and connectors shall be maintained and not extended through walls or partitions.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 816. Outlets to Be Capped.

Gas supply outlets shall be maintained capped when not in use.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

Subarticle 7. Heating Appliances

§ 818. Use of Fuel.

All existing fuel burning appliances and equipment shall be maintained and approved by the enforcing agency for the type of fuel supplied.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 820. Unvented Heaters.

No unvented fuel burning heater shall be permitted to be used in a labor camp.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 822. Prohibited Use.

Gas hot plates, cook stoves and ranges shall not be used as room heaters in a labor camp.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.

3. Editorial correction of NOTE filed 11-18-82 (Register 82, No. 47).

§ 824. Appliance Installation Instructions.

All heating and air conditioning equipment shall be maintained according to the manufacturers installation instructions.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11-18-82 (Register 82, No. 47).

§ 826. Clearances for Existing Appliances Without Instructions.

Clearances shall be maintained between the appliance and combustible materials as follows:

1. 36 inches (91.4 centimeters) for solid or liquid fuel fired Radiant Heaters, 12 inches (30.4 centimeters) for solid or liquid fuel fired circulating heaters, and six inches (15.2 centimeters) for gas fired circulating

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space heaters. Separations will be measured from the appliance jacket, sides, rear and from the single wall connector vent piping.

2. Space or room heaters burning gas, solid or liquid fuel when mounted on combustible flooring shall have at least four (4) inches (10.1 centimeters) of open space under the base of the appliance.

3. The combustible flooring under the appliance shall be protected with sheet metal of not less than 24 U.S. Gauge, extending six inches (15.2 centimeters) beyond the appliance on all sides, and where solid fuel is used shall extend not less than 18 inches (45.7 centimeters) at the front or side where the ashes are removed.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 828. Shut–Off Valve.

All heating appliances supplied with gas or liquid fuel shall be maintained with a shut–off valve installed in the supply line immediately adjacent to the appliance.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 830. Clean Appliances.

All heating and cooking appliances shall be clean and grease free. It is the employer/manager's responsibility to see that the appliances in dwelling units are clean and grease free before occupancy by a new tenant.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 832. Appliance Vent Installation.

(a) Appliance vent piping shall be maintained, connected to the appliance hood collar or draft diverter and extended without openings through protective flashing to a point above the roof.

(b) Appliance vent piping shall be maintained to be secured at each joint, properly graded and adequately supported.

(c) Appliances shall be maintained to be properly vented and shall not be vented into a fireplace or into a chimney serving a fireplace.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).
2. Amendment filed 3–15–83; effective thirtieth day thereafter (Register 83, No. 12).

§ 834. Water Heater Relief Valves.

Water heaters equipped with pressure–temperature relief valves shall be maintained with metal piping installed, undiminished in size, extending from the valve outlet to a point outside of the building not more than two feet (60.9 centimeters) nor less than six inches (15.2 centimeters) above the ground and pointing downward.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 836. Appliance Compartments.

(a) Fuel burning heating appliance compartments shall be maintained structurally sound, and provide adequate combustion air through screened openings.

(b) Heating appliance compartments shall be maintained in a clean condition and not used for storage.

(c) Heating appliance compartments outside of buildings shall be maintained to protect the appliance from the weather.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 838. Secured Appliances.

All heating appliances shall be maintained rigidly secured in place.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

Subarticle 8. Electrical Systems

§ 850. Electrical Systems Use.

Electrical fixtures, equipment and other devices may have their existing use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and location and is not a hazard to life, health, or property.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 852. Safeguards.

All electrical equipment, devices, and safeguards shall be maintained in good working order.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 854. Wiring Methods and Materials.

Electrical materials, devices, appliances fittings and equipment maintained in labor camps shall be approved for the purpose and shall be maintained to be connected and secured in an approved manner when in service.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 858. Overcurrent Protection.

(a) Electrical conductors shall be maintained and protected by means of fuses or circuit breakers rated at not more than the allowable capacity of the conductors.

(b) Tampering. Overcurrent protection shall not be altered or tampered with.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 860. Weather Proof.

The service equipment which is not rain tight shall be maintained and protected from the weather.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 862. Vertical Clearances.

The minimum vertical clearance to be maintained for open electrical conductors are as follows:

(a) Above roofs—eight feet (2.4 meters).

(b) Above walkways and at attachment point of buildings—10 feet (3.0 meters).

(c) Above driveways and parking areas—15 feet (4.5 meters).

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 864. Conductors on Poles.

Overhead electrical conductors located on poles and bracket supports shall be maintained and properly supported, secured, and routed to clear sharp objects, other conductors and tree branches.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 866. Grounding Fixed Equipment.

Non-current carrying metal parts of fixed electrical equipment shall be maintained effectively grounded.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 868. Grounding of Cord Connected Equipment.

Cord connected appliances, such as washing machines, dishwashers, garbage disposals, electrical system of gas ranges and furnaces and other equipment required to be grounded, shall be maintained to be grounded by means of an approved cord with a grounding conductor and a grounded type attachment plug.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 870. Grounded Convenience Outlet.

Grounding type outlets located at the following locations shall be maintained in good working order:

(a) Adjacent to fixed appliances.

(b) For appliances located adjacent to lavatories, sinks, laundry tubs, or within reach of a grounded surface.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 872. Outlets in Habitable Rooms.

At least one convenience outlet and one supplied electric light fixture shall be maintained in good working order in all habitable rooms.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 874. Lighting in Bath and Toilet Room.

At least one supplied light fixture in good working order shall be maintained in all bathrooms and toilet rooms.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11-18-82 (Register 82, No. 47).

§ 878. Enclosed Light Fixture.

The light fixtures located over a bathtub or in a shower compartment shall be maintained to be moisture proof and equipped with enclosure and enclosure gaskets in good condition.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11-18-82 (Register 82, No. 47).

§ 880. Shower Light Switch.

The switch for shower lighting fixtures or an exhaust fan which have been located over a tub or in a shower compartment shall be maintained outside of the tub space or the shower compartment in a dry location.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 882. Range Hood Light.

The light fixtures located in or under a range hood shall be maintained to be grease and moisture proof with enclosure and enclosure gaskets maintained in good condition.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 884. Pullchain Switch.

A pullchain switch shall not be maintained in a damp location, and not over or within reach of a plumbing fixture, cookstove, range, furnace, and other grounded surfaces.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 886. Exposed Nonmetallic Sheathed Cable.

Exposed nonmetallic sheathed cable shall be maintained to be protected from physical and mechanical damage by running boards, guardstrips or installed in conduit.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 888. Cable Clamps.

All loose nonmetallic sheathed cable shall be maintained to be secured in place by staples and straps at intervals which will not exceed 4 1/2 feet (1.3 meters) and within 12 inches (30.4 centimeters) from every cabinet, box, or fitting.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 890. Outlet Boxes.

All electrical conductors shall be maintained to terminate in an approved outlet box or a junction box rigidly secured to the building or structure.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 892. Covers.

Open outlet boxes, fittings and enclosures shall be maintained with covers. Openings not in use will be closed.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 894. Extension Cords.

Extension cords shall not be maintained as a connection to electric light fixture sockets in order to energize appliances.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

§ 896. Cord Wiring.

Flexible cords shall not be maintained as a fixed wiring method or run through walls and partitions.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Section 17040, Health and Safety Code.

HISTORY

1. Editorial correction filed 11-18-82 (Register 82, No. 47).

Subarticle 9. Use of Mobile Homes, Recreational Vehicles, Commercial Coaches, Mobile Home Accessory Buildings, Structures, Tents and Camp Grounds

§ 900. Facilities.

The facilities to accommodate tent campers, mobile homes, recreational vehicles, and commercial coaches shall be maintained in conformance with the applicable requirements of Title 25, California Administrative Code, Part 1, Chapter 2, Subchapters 1 and 2.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Sections 17040 and 17041, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 902. Installation Requirements.

All mobile homes in a labor camp shall be maintained in accordance with the provisions of Title 25, California Administrative Code, Part 1, Chapter 2, Subchapters 1 and 2, as applicable.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Sections 17040 and 17041, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 904. Insignia and/or Label Required.

The mobile homes constructed prior to June 15, 1976, recreational vehicles, and commercial coaches provided by the employer shall bear an insignia of approval issued by the Department of Housing and Community Development. The mobile homes constructed on or after June 15, 1976, shall bear a label indicating compliance to the Federal Mobile home Construction and Safety Standards.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Sections 17040 and 17041, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 11–18–82 (Register 82, No. 47).

§ 908. Alterations and Conversions.

All mobile homes required to bear a department insignia of approval and/or a Federal label shall be maintained in compliance with Title 25, California Administrative Code, Chapter 3, Subchapters 1 and 2. Prior to making any alteration or conversion, a permit shall be obtained from the department.

NOTE: Authority cited: Sections 17003.5 and 17040, Health and Safety Code. Reference: Sections 17040 and 17041, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 910. Tents.

(a) The tents provided by the operator shall not be used to house occupants unless such tents are maintained with tight wooden floors raised at least four inches (10.1 centimeters) above the ground level and are equipped with baseboards on all sides to a height of at least six inches (15.2 centimeters) or maintained with concrete slabs with the finished surface at least four inches (10.1 centimeters) above grade and equipped with curbs on all sides at least six inches (15.2 centimeters) high.

(b) A tent shall not be considered a suitable sleeping place when it is found necessary to provide heating facilities in order to maintain a minimum temperature of 50° Fahrenheit (10° Celsius) within such tent during the period of occupancy.

NOTE: Authority cited: Sections 17040, 17041 and 17050, Health and Safety Code. Reference: Sections 17040 and 17041, Health and Safety Code.

HISTORY

1. Editorial correction filed 11–18–82 (Register 82, No. 47).
2. Amendment of subsection (a) filed 3–6–85; effective thirtieth day thereafter (Register 85, No. 10).
3. Amendment of subsection (b) and NOTE filed 8–20–92 as an emergency; operative 8–20–92 (Register 92, No. 34). A Certificate of Compliance must be filed with OAL 12–18–92 or emergency language will be repealed by operation of law on the following day.
4. Repealer of emergency amendment filed 8–20–92 and reinstatement of prior text filed 3–15–93 by operation of Government Code section 11346.1(f) (Register 93, No. 12).

Article 7. Actions and Proceedings

§ 920. Actions and Proceedings.

(a) Actions and proceedings of this subchapter shall be in accordance with Chapters 5 and 6 (commencing with Section 17050) of the Health and Safety Code.

(b) The enforcement agency may revoke without additional hearing the permit to operate or exemption of a labor camp whenever any judgment is rendered against the operator thereof concerning the operation of the labor camp.

(c) The enforcement agency may revoke without additional hearing the exemption of employee community housing whenever any judgment is rendered against the owner or operator thereof for not maintaining or operating such employee community housing in substantial compliance with relevant portions of these regulations.

NOTE: Authority cited: Sections 17003.5, 17040 and 17050, Health and Safety Code. Reference: Sections 17040, 17051, 17060.5 and 17061, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction filed 11–18–82 (Register 82, No. 47).
4. Repealer of subsection (d) filed 3–6–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 922. Permit or Exemption Suspension.

If any labor camp or employee community housing is not in substantial compliance with relevant use, occupancy, or maintenance provisions of the Employee Housing Act, this subchapter, or the conditions of the permit to operate, or exemption, the permit to operate or exemption may be suspended by the enforcement agency pursuant to the procedures in this article.

NOTE: Authority cited: Sections 17003.5 and 17036, Health and Safety Code. Reference: Section 17036, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Amendment filed 4–28–80 as an emergency; effective upon filing (Register 80, No. 18). Certificate of Compliance included.
3. Editorial correction filed 11–18–82 (Register 82, No. 47).

§ 923. Authority to Serve Notices.

Authority to serve notices required by this subchapter is provided in Section 17051 of the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5, 17036, 17040 and 17050, Health and Safety Code. Reference: Section 17051, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 924. Notice.

The enforcement agency shall issue and serve upon the permittee or exemptee a notice setting forth in what respects the provisions of the Health and Safety Code, this subchapter or the conditions of the permit to operate or exemption have been violated, and shall notify him that unless these provisions have been complied with within five days, or within such longer period of time, not to exceed 30 days, which may be allowed by the enforcement agency from the date of notice, the permit to operate or exemption shall be suspended.

NOTE: Authority cited: Sections 17003.5 and 17036, Health and Safety Code. Reference: Sections 17036, 17051 and 17060, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 926. Service.

The notice shall be served by posting at least one copy in a conspicuous place on the premises described in said permit or exemption, and by sending another copy by certified mail, postage prepaid, return receipt requested, to the person to whom the permit or exemption was issued at the permittee's or exemptee's address of record, or as otherwise designated on the permit or exemption. The notice may also be served by personal service at the discretion of the enforcement agency.

NOTE: Authority cited: Sections 17003.5 and 17036, Health and Safety Code. Reference: Sections 17036 and 17051, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 928. Appeal.

Any permittee or exemptee receiving a notice of suspension or revocation may request a hearing on the matter. The permittee or exemptee shall file a written petition with the enforcement agency within 10 days of the posting or service of such notice requesting such hearing and setting forth a brief statement of the grounds therefor.

NOTE: Authority cited: Sections 17003.5 and 17036, Health and Safety Code. Reference: Sections 17036 and 17051, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 930. Hearing.

(a) Upon receipt of such petition, the enforcement agency within 10 days shall set a time and place for such hearing and shall give the petitioner a written notice thereof. The hearing shall be no less than 10 days or more than 20 days from service of this notice. At such hearing the petitioner shall be given the opportunity to show cause, if any, why the permit to operate or exemption should not be suspended or revoked.

(b) After such hearing the enforcement agency shall sustain, modify or withdraw the notice, depending upon its findings as to whether the applicable provisions of the Health and Safety Code and these regulations have been complied with. The enforcement agency shall keep a complete and exact record of all such hearings and shall furnish a copy thereof to the Department of Housing and Community Development.

(c) If the requirements of the notice have not been complied with on or before the expiration of the time permitted or allowed by the enforcement agency after posting or service of the notice, or a decision adverse to the operator has been issued as a result of the hearing, the enforcement agency shall suspend or revoke, as appropriate, the permit or exemption, or may extend the time allowed for compliance not to exceed an additional 30 days.

NOTE: Authority cited: Sections 17003.5, 17036 and 17050, Health and Safety Code. Reference: Sections 17036, 17050 and 17051, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of NOTE filed 11–18–82 (Register 82, No. 47).

§ 932. Reinstatement.

(a) Prior to obtaining a new permit to operate or exemption, any person whose permit to operate or exemption has been suspended or revoked shall comply with all of the requirements of this subchapter.

(b) Any person operating a labor camp or employee community housing without a permit or exemption after suspension or revocation of the permit to operate or exemption shall be subject to prosecution for violation of Chapter 1, Part 1, Division 13 of the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5 and 17036, Health and Safety Code. Reference: Section 17036, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction of subsection (b) filed 11–18–82 (Register 82, No. 47).

Article 8. Penalties

§ 940. Penalties.

Any violation of the provisions of this subchapter shall be considered a violation of the provisions of the Employee Housing Act subject to the penalties set forth in Section 17060, 17061 or 17061.5 of the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5 and 17036, Health and Safety Code. Reference: Sections 17036, 17060, 17061 and 17061.5, Health and Safety Code.

HISTORY

1. Amendment filed 12–31–79 as an emergency; designated effective 1–1–80 (Register 80, No. 1). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–1–80.
2. Editorial correction filed 11–18–82 (Register 82, No. 47).
3. Amendment filed 3–6–85; effective thirtieth day thereafter (Register 85, No. 10).

Appendix A

Employee Housing Act
Health and Safety Code
Division 13, Part 1

HISTORY

1. Editorial correction repealing Appendix A filed 11–18–82 (Register 82, No. 47). For prior history, see Registers 80, No. 34 and 80, No. 21.

Subchapter 4. California Low–Income Home Management Training Program

NOTE: Authority cited: Sections 41134, 41135, 41226, Health and Safety Code. Reference: Sections 41134, 41135, 41226, Health and Safety Code.

HISTORY

1. New Subchapter 4, Articles 1 and 2 (§§ 1500–1520, not consecutive) filed 3–9–76 as an emergency; effective upon filing (Register 76, No. 11).
2. Certificate of Compliance filed 4–28–76 (Register 76, No. 18).
3. Renumbering of Subchapter 4, Articles 1 and 2 (Sections 1500–1520, not consecutive) to Chapter 6, Subchapter 2, Articles 1 and 2 (Sections 6200–6220, not consecutive) filed 1–28–77 as procedural and organizational; effective upon filing (Register 77, No. 5).

Subchapter 5. Housing Element Guidelines

NOTE: Authority cited: Sections 41134, 41135 and 41226, Health and Safety Code. Reference: Section 65302, Government Code; Sections 41134, 41135 and 41226, Health and Safety Code.

HISTORY

1. New Subchapter 5, Articles 1–3 (Sections 1600–1650, not consecutive) filed 4–13–76 as an emergency; effective upon filing (Register 76, No. 16).
2. New Subchapter 5, Articles 1–3 (Sections 1600–1650, not consecutive) filed 8–9–76 as an emergency; designated effective 8–10–76 (Register 76, No. 33).
3. New Subchapter 5, Articles 1–3 (Sections 1600–1650, not consecutive) refiled 12–7–76 as an emergency; effective upon filing (Register 76, No. 50).
4. Renumbering of Subchapter 5, Articles 1–3 (Sections 1600–1650, not consecutive) to Chapter 6, Subchapter 3, Articles 1–3 (Sections 6300–6350, not consecutive) filed 1–28–77 as procedural and organizational, effective upon filing (Register 77, No. 5).

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CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Division 1. Housing and Community Development

Chapter 2. Mobilehome Parks and Installations

Vol. 33

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Chapter 2. Mobilehome Parks and Installations

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Chapter 2. Mobilehome Parks and Installations

Article 1. Administration and Enforcement

§ 1000. Application and Scope.

(a) Except as otherwise provided in sections 18300, 18303, and 18304, Health and Safety Code, the provisions of this chapter shall apply to the construction, use, maintenance, and occupancy of mobilehome parks, mobilehome and special occupancy lots, permanent buildings, accessory buildings or structures, and building components wherever located, both within and outside of mobilehome parks, in all parts of the state. These provisions shall also apply to the use, maintenance, and occupancy of manufactured homes, mobilehomes, multi-unit manufactured homes and recreational vehicles, and the installations for supplying fuel gas, water, electricity, and the disposal of sewage from accessory buildings or structures, building components, recreational vehicles, manufactured homes, multi-unit manufactured homes and mobilehomes wherever located within mobilehome parks, in all parts of the state.

(b) Provisions that apply only to Special Occupancy Parks, or separate designated special occupancy park sections within a park, are located in Title 25, California Code of Regulations, Division 1, chapter 2.2 of this division.

(c) Existing construction, connections, and installations of units, accessory buildings and structures, building components, plumbing, electrical, fuel gas, fire protection, earthquake resistant bracing, and permanent buildings made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18303, 18304, 18552, 18605, 18610, 18612, 18613, 18620, 18630, 18640, 18670, 18690 and 18691, Health and Safety Code.

HISTORY

1. New Chapter 2 (Subchapters 1 and 2, Sections 1000–2864, not consecutive; Appendices A–E) filed 6–11–79; effective thirtieth day thereafter (Register 79, No. 23). For history of former Chapter 2, see Register 78, No. 11.
2. Editorial correction of HISTORY NOTE No. 1 (Register 85, No. 36).
3. Repealer and new section filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
4. Amendment of chapter heading, repealer of former subchapter 1 heading and amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
5. Editorial correction of chapter heading (Register 2005, No. 33).

§ 1002. Definitions.

In addition to the definitions contained in this section, which apply only to this chapter, the definitions contained in sections 18200–18700 of the Health and Safety Code and those definitions relating to building standards contained in Title 24, California Code of Regulations Parts 2, 3, 4, and 5, are also applicable to the requirements of this chapter.

(a) –A–

(1) Accessory building or structure. Any awning, window awning, cabana, ramada, storage cabinet, storage building, private garage, carport, fence, stairway, ramp, or porch, or any other building or structure other than a patio, established for the use of the occupant of a unit.

(2) Approved. Reviewed and/or inspected and deemed acceptable to the local enforcement agency.

(3) Architect. A person licensed by the State of California, qualified to practice architecture in this state. For purposes of this chapter, an architect designing or approving plans shall have skill, knowledge, and expertise in that scope of practice.

(4) Awning. An accessory structure, used for shade or weather protection, supported by one or more posts or columns and partially supported by a unit or other accessory structure installed, erected, or used on a lot.

(5) Awning Enclosure. An enclosure designed for outdoor recreational purposes, not for habitation, constructed under an awning or freestanding awning, which may include a screen room, and either an accessory building or structure, or a building component.

(6) Awning, Freestanding. An accessory structure, used for shade or weather protection, supported entirely by columns or posts and, other than with flashing, not attached to or supported by a unit or other accessory structure.

(7) Awning, Window or Door. An accessory structure, used for shading a window or door, supported wholly by the unit or other accessory building or structure to which it is attached.

(b) –B–

(1) Branch Water Service Line. That portion of the water distribution system extending from the park water main to a lot, including connections, devices and appurtenances.

(2) Building Components. Any subsystem, subassembly, or other system, constructed or assembled in accordance with the provisions of California Factory-Built Housing Law, contained in the California Health and Safety Code commencing with section 19960, designated for use in, or as part of, an accessory building or structure, which may include structural, electrical, mechanical, plumbing, and fire-protection systems and other systems affecting health and safety. However, "building components" do not include appliances or equipment, such as heaters, stoves, refrigerators, or air conditioners, which have been listed and labeled by an approved testing and listing agency.

(3) Building Standard. Any rule, regulation, or other requirement adopted by the California Building Standards Commission, or a local government pursuant to Section 17958.5 of the Health and Safety Code, pertaining to the construction, plumbing, electrical, and fuel gas equipment, and installations within permanent buildings in parks. See also section 18909 division 13, part 2.5.

(c) –C–

(1) Cabana. A freestanding accessory building or structure, or building component of a unit, located immediately adjacent to and intended to increase the living area of that unit, which is a portable, demountable, or permanent room enclosure or other building erected or constructed for habitation. A cabana shall not exceed the size of the unit to which it is an accessory.

(2) California Building Code. California Code of Regulations, Title 24, Part 2, as adopted and published by the California Building Standards Commission.

(3) California Electrical Code. California Code of Regulations, Title 24, Part 3, as adopted and published by the California Building Standards Commission.

(4) California Fire Code. California Code of Regulations, Title 24, Part 9, as adopted and published by the California Building Standards Commission.

(5) California Mechanical Code. California Code of Regulations, Title 24, Part 4, as adopted and published by the California Building Standards Commission.

(6) California Plumbing Code. California Code of Regulations, Title 24, Part 5, as adopted and published by the California Building Standards Commission.

(7) Carport. An accessory structure for vehicle parking, used for shade or weather protection, supported by one or more posts or columns and partially supported by a unit or other accessory structure installed, erected, or used on a lot.

(8) Carport, Freestanding. An accessory structure for vehicle parking, used for shade or weather protection, supported entirely by columns or posts and, other than flashing, not attached to or supported by a unit or other accessory structure.

(9) Certificate of Occupancy. A document issued by the enforcement agency when an MH-unit or commercial modular, installed on a foundation system, is approved for occupancy by the enforcement agency.

(10) Certification. The department's stamp of approval applied to the earthquake resistant bracing system manufacturer's plans and installation instructions.

(11) Cited Person. A person or entity issued a notice of violation for a violation of this chapter or applicable laws who is responsible for its correction.

(12) Combustible. As applied to building construction is any material or construction which does not meet the criteria of noncombustible as defined in subsection (n) of this section.

(13) Common Area. An area, within the boundaries of the park, that is not specific to any lot or space and is under the ownership and control of the park.

(14) Commercial Modular. "Commercial modular" means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is required to be moved under permit, and shall include a trailer coach as defined in section 635 of the Vehicle Code. "Commercial coach" has the same meaning as "commercial modular" as that term is defined in section 18001.8 of the Health and Safety Code.

(15) Concrete Block Pier. An assembly of load–bearing, concrete blocks with wooden wedges used to support and level a unit.

(16) Concrete Pier. A concrete load–bearing support that incorporates into its structure an adjustable means of raising and leveling the unit.

(17) Contractor. Any person as defined in Business and Professions Code sections 7026 through 7026.3.

(d) –D–

(1) Department. The Department of Housing and Community Development.

(2) Dependent Unit. A unit not equipped with a toilet and sewage disposal system.

(3) Drain Connector. The extension, from the unit's or accessory building's or structure's drain outlet, to the lot's drain inlet.

(4) Drain Outlet. The discharge end of a unit's or accessory building's or structure's, sewage drainage system.

(e) –E–

(1) Earthquake Resistant Bracing System (ERBS). An anchoring system, bracing system, or other device designed and constructed for the purpose of protecting the health and safety of the occupants of, and reducing damage to, an MH–unit in the event of an earthquake. See also, "ERBS."

(2) Electrical Feeder Assembly. The overhead or underchassis feeder conductors, including the equipment grounding conductor, together with the necessary fittings and equipment, designed for the purpose of delivering energy from the lot electrical service equipment to the branch circuit distribution panelboard of the unit or accessory building or structure.

(3) Electrical Service, Park. The conductors and equipment for delivering electrical energy from the electrical supply system or the generator of an isolated plant, to the electrical wiring system of the park.

(4) Electrical System, Park–Primary. That part of the electrical wiring system of the park distributing electrical energy to the park's secondary electrical system.

(5) Electrical System, Park–Secondary. That part of the electrical wiring system of the park distributing electrical energy at a nominal 120 or 120/240 volts, single phase.

(6) Electrical Wiring System, Park. All of the electrical equipment, appurtenances and related electrical installations outside of permanent buildings, units, and accessory buildings or structures within a park.

(7) Emergency. An occurrence constituting a present or imminent serious risk to life, health, safety, or property requiring immediate correction.

(8) Energize. The act of applying electrical energy, or gas or water pressure.

(9) Enforcement Agency. The Department of Housing and Community Development, or any city, county, or city and county that has assumed responsibility for the enforcement of this chapter and chapter 2.2 pursuant to sections 18300 and 18865 of the Health and Safety Code.

(10) Engineer. A person registered with the State of California as a professional engineer qualified to practice engineering in this state. For purposes of this chapter, an engineer designing or approving plans shall have skill, knowledge, and expertise in that scope of practice.

(11) Equipment. All materials, appliances, devices, fixtures, fittings, or accessories used in the structural, fire safety, plumbing, mechanical, and electrical systems of units, accessory buildings and structures, buildings, structures, infrastructures, and systems subject to this chapter.

(12) ERBS. The acronym for an earthquake resistant bracing system.

(13) ERBS–Manufacturer. A person, firm or business engaged in assembly or construction of earthquake resistant bracing systems for MH–units.

(14) ERBS–Manufacturer's Installation Instructions. The specific written directions for an earthquake resistant bracing system to be installed on or under MH–units.

(f) –F–

(1) Feeder. The conductors for conveying electrical energy between any two points in the park's electrical, wiring system excluding electrical feeder assemblies.

(2) Fence. A freestanding vertical wall structure.

(3) Fire Agency. A city, county, or city and county fire department, or fire district.

(4) Fire Hydrant. A connection to a water source for the purpose of supplying water to a fire hose or other fire protection apparatus, and for the purposes of this chapter, includes a standpipe.

(5) Fire Hydrant, Private. A fire hydrant including wet standpipes owned by the park.

(6) Fire Hydrant System. All fire hydrants, water piping, pumps, tanks, and valves attached to the water system supplying the hydrants.

(7) Footing. The portion of a support, in direct contact with the ground, that distributes imposed loads to the soil.

(8) Forms

(A) Annual Permit To Operate (local enforcement agency), HCD 503B, dated 7/04.

(B) Application For Alternate Approval, HCD 511, dated 7/04.

(C) Application For Certification Of Manufactured Home Or Mobilehome Earthquake Resistant Bracing System, HCD 50 ERBSCERT, dated 7/04.

(D) Application For Permit To Construct, HCD 50, dated 7/04.

(E) Application For Permit To Operate, HCD 500, dated 7/04.

(F) Application For Standard Plan Approval, HCD 520, dated 7/04.

(G) Certificate of Occupancy, HCD 513C, dated 7/04.

(H) Floodplain Ordinance Compliance Certification For Manufactured Home/Mobilehome Installations, HCD 547, dated 7/04.

(I) Manufactured Home or Mobilehome Installation Acceptance (Local Enforcement Agency), HCD 513B, dated 7/04.

(J) Manufactured Home or Mobilehome Installation Acceptance, HCD 513A, dated 7/04.

(K) Permit To Operate (local enforcement agency), HCD 500A, dated 7/04.

(L) Plot Plan, HCD 538, dated 7/04.

(M) Private Fire Hydrant Test And Certification Report, HCD MP 532, dated 01/07.

(N) School Impact Fee Certification, HCD MP 502, dated 7/04.

(9) Foundation System.

An assembly of materials designed and engineered by an architect or engineer to resist the imposition of external forces once the MH–unit or commercial modular is installed upon it. The installation on a foundation is classified as one of the following:

(A) Foundation installation — a fixture or improvement to real property, recorded with the county recorder's office, once recorded is no longer personal property, and which complies with the requirements of Health and Safety Code section 18551(a); or

(B) Chattel installation — neither a fixture nor an improvement to real property, not recorded with the county recorder's office, remains person-

al property, and which complies with the requirements of Health and Safety Code section 18551(b).

(g) –G–

(1) Garage. An enclosed accessory building or structure located on a lot and designed for the storage of motorized vehicles.

(2) Gas Connector. A flexible connector, listed for exterior use, to convey gas from a gas riser outlet to the gas supply connection of a unit.

(3) Gas Piping System, Park. The pipe, equipment and related installations, outside of permanent buildings, units, or accessory buildings or structures, for distributing gas throughout the park.

(4) Gas Riser Outlet. That portion of a park gas service lateral or gas piping system, extending above ground, serving a lot.

(5) Gas Service Lateral. The pipe or that portion of a park gas piping system extending from the main park gas line to the individual gas riser outlet serving a lot.

(6) Good Cause. What the enforcement agency would find to be a reasonable basis for failing to appear at the time and place scheduled for a hearing, informal conference, formal hearing, or for not complying with a specified timeline.

(7) Greenhouse. An accessory structure constructed mainly of translucent or transparent materials used for the cultivation of plants.

(8) Gross Floor Area. The floor area enclosed within the surrounding exterior walls of a unit, accessory building or structure, or portions thereof. Where there are no walls, "Gross Floor Area" means the usable area contained within the horizontal projection of the roof and floor.

(9) Ground Anchor. That part of a tiedown assembly that is inserted into the ground.

(10) Guardrail. A vertical barrier erected along the open edges of a porch or other elevated area to prevent persons from falling to a lower level.

(h) –H–

(1) Habitable Room or Structure. Any structure or room within a structure meeting the requirements of this chapter for sleeping, living, cooking, or dining purposes, excluding such enclosed spaces as awning enclosures, closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, unfinished cellars, utility rooms, and similar spaces.

(2) Handrail. A railing provided for grasping with the hand for support, erected along one or more edges of a stairway or ramp.

(3) Hearing Officer. The authorized representative of the enforcement agency, or other official authorized to conduct hearings.

(i) –I–

(1) Independent Unit. A unit equipped with a toilet and designed to be connected to a lot sewer inlet.

(2) Identification Label. A decal, tag, or label indicating acceptance by the department of a standard plan for an accessory building or structure.

(3) Insignia or Label of Approval. A tag or label required pursuant to Health and Safety Code section 18026, or 18027.3 and permanently affixed to each section of a unit indicating compliance with applicable regulations of the department or with the Federal Manufactured Home Construction and Safety Standards, Title 24 of the Code of Federal Regulations, Part 3280.

(j) –J– Reserved

(k) –K– Reserved

(*l*) –L–

(1) Landing, Stairway. An individual platform, not to exceed twelve (12) square feet, usually at the top or bottom of a stairway, to ease the transition from a stairway to a level walking surface. Landings for ramps must comply with requirements in the California Building Code.

(2) Lath structure. An accessory structure of open design, having no solid roof or walls.

(3) Listed. All equipment, materials, products, and installations included in a list published by an approved listing agency.

(4) Listing Agency. An independent agency approved by the department that:

(A) is in the business of listing and labeling equipment, materials, products, or installations; and

(B) maintains a periodic inspection program on current production of listed equipment, materials, or products or periodic evaluations of listed installations; and

(C) makes available at least annually a published report of listings that includes specific information about the nationally recognized standard with which each item complies and the manner in which the item is safe for use, or information about the listed equipment, material, product, or installation that has been tested and found suitable for use in a specified manner.

(5) Load. Any of the forces that a structure is designed to withstand, including any permanent force such as the weight of a roof, known as a dead load; any moving or temporary force, such as the weight of occupants, known as a live load; wind loads imposed by wind activity; and seismic loads imposed by seismic activity.

(6) Lot Access. An unobstructed way or means of approaching a roadway or public thoroughfare to or from a lot.

(7) Lot Electrical Service Equipment, Park. That equipment containing the means to connect or disconnect overcurrent protective devices and receptacles, or other means for supplying a unit, listed appliance, accessory building or structure, or building component from the park's electrical supply.

(8) Lot Line Change. The alteration, movement, or shifting of a lot line for an existing lot.

(9) Lot Line Creation. The initial establishment of a lot line for a new lot.

(10) Lot Water Service Outlet, Park. That portion of the park's water distribution system, including equipment and devices, provided with a fitting for connecting a unit's water connector.

(m) –M–

(1) MH–unit. A term, as used in this chapter, to replace references to "mobilehome, manufactured home, and multi–unit manufactured housing".

(2) Maintenance Inspection. A general park inspection by the enforcement agency, undertaken pursuant to Health and Safety Code section 18400.1 in effect at the time of the inspection.

(3) Mobilehome/Manufactured Home Installation Acceptance Certificate. A document issued by the enforcement agency when an MH–unit is approved for occupancy by the enforcement agency pursuant to Health and Safety Code section 18613 or 18551(b).

(4) Model. A specific design or style of an accessory building or structure, foundation system, earthquake resistant bracing system, or tiedown system designed as a specific assembly of component structural parts. Any difference in materials or construction or dimensions, which affect the structural design, shall constitute a different model.

(n) –N–

(1) N.F.P.A. An acronym for the National Fire Protection Association.

(2) Noncombustible. As applied to building construction is any material which meets the criteria for "noncombustible" as specified in section 215 of the California Building Code.

(3) Nuisance. A "nuisance" is as defined in Civil Code section 3479; "private nuisance" is as defined in Civil Code section 3481; and "public nuisance" is as defined in Civil Code section 3480 and Penal Code section 370.

(o) –O–

(1) Occupant. For the purposes of this chapter, means a person who lawfully occupies a unit on a lot.

(2) Occupied Area. The total of all the space occupied by a unit, including eave overhangs and projections; building components; and all accessory buildings or structures on a lot.

(3) Operator. The person or entity to whom a permit to operate is issued by the enforcement agency.

(4) Owner. The person or entity that legally owns or possesses an item, property, or business through title, lease, registration or other legal document.

(p) –P–

(1) Park. For purposes of this chapter, is any manufactured housing community or mobilehome park.

(2) Park Trailer. A recreational vehicle as defined in Health and Safety Code section 18009.3.

(3) Patio. A paved or raised area not to exceed eight (8) inches in height above grade, used for access or recreational activities.

(4) Permanent Building. Any permanent structure under the control and ownership of the park owner or operator which is not on a lot and is expressly used in the operation of the park such as for the park office, a community center, or park storage facilities.

(5) Permit to Operate. A permit issued annually by the enforcement agency authorizing operation of a park.

(6) Pier. A vertical support constructed of concrete, steel, or concrete block for the transmission of loads from a unit, accessory building or structure, or building component, to a footing. A pier does not include the footing.

(7) Porch. A freestanding, outside walking platform with an area exceeding twelve (12) square feet, having a floor or deck surface elevated more than eight (8) inches above grade.

(8) Power Supply Cord. A flexible cord assembly of conductors, including a grounding conductor, connectors, attachment plug cap, and all other fittings, grommets, or devices, designed for the purpose of delivering electrical energy from the park's lot electrical service equipment to the branch circuit distribution panelboard of the unit.

(9) Private Fire Hydrant. See "Fire Hydrant, Private".

(q) –Q– Reserved

(r) –R–

(1) Ramada. Any freestanding roof, or shade structure, installed or erected above a unit or accessory building or structure or any portion thereof.

(2) Ramp. An accessory structure providing a sloping path of travel, intended for pedestrian traffic.

(3) Recreational Vehicle. A vehicle as defined in section 18010 of the Health and Safety Code and includes a park trailer, as defined in Section 18009.3 of the Health and Safety Code.

(4) Registered Owner. A person registered by the appropriate department as the owner of the unit.

(5) Responsible Person. For purposes of this chapter, is any of the following:

(A) The park owner or operator for park–owned property or facilities.

(B) An available person, employed by the park for emergencies, as defined in section 18603 of the Health and Safety Code.

(C) Any person or entity that obtains a permit to construct.

(D) The owner of a unit, accessory building or structure, or building component.

(6) Retaining Wall. A wall designed to resist the lateral displacement of soil or other materials.

(7) Roadway. A thoroughfare for vehicular traffic within a park.

(s) –S–

(1) Sanitation Station, Recreational Vehicle. A plumbing receptor designed to receive the discharge of sewage holding tanks of self–contained recreational vehicles and which is equipped with a water hose connection for washing the receptor.

(2) Sewage Drain Lateral. That portion of the park sewage system that extends to an individual lot drain inlet.

(3) Sewage Drainage System. All the piping within or attached to the unit or accessory building or structure that conveys sewage or other liquid wastes to the drain outlet.

(4) Sewer, Park. That part of the park sewage drainage system beginning at the lot drain inlet or from a point two (2) feet downstream from a permanent building drain connection and terminating at the public sewer or private sewer disposal system.

(5) Shall. "Shall" means required, and includes "must" and "will".

(6) Skirting. Material used to enclose or partially enclose the area under a unit or accessory building or structure.

(7) Standard Plan Approval (SPA). A plan approved, by the department, for an accessory building or structure, an engineered tiedown system, or a foundation system, to be installed or constructed on a repetitive basis, for the purpose of obtaining a construction permit through an enforcement agency.

(8) Stairway. A step or any configuration of steps or risers where the run (length) of an individual tread or step does not exceed thirty (30) inches, and which is designed to enable passage from one elevation to another.

(9) Steel Pier. A steel support that incorporates into its structure an adjustable means of raising and leveling the unit or accessory building or structure that the pier supports.

(10) Storage Building. An accessory building that may exceed 10 feet in height or 120 square feet of gross floor area located on a lot, designed and used solely for storage of the personal equipment and possessions of the unit's occupants. The construction of a storage building shall comply with the California Building Standards Code, and a permit to construct is required from the enforcement agency.

(11) Storage Cabinet. An accessory structure, not exceeding 10 feet in height or 120 square feet of gross floor area, located on a lot, designed and used solely for the use and storage of the personal equipment and possessions of the unit's occupants.

(12) Support. The entire pier and footing assembly, used to transfer the loads of a unit, accessory building or structure, or building component to the ground.

(13) Support System. A system of supports which sustains the vertical loads of a unit, accessory building or structure, or building component. A support system does not include a foundation system.

(t) –T–

(1) Technical Service. The providing of interpretation and clarification by the enforcement agency of technical data and other information relating to the application of this chapter.

(2) Tensioning Device. A mechanical device that is part of a tiedown assembly. The tensioning device allows a person to eliminate any slack in the tiedown assembly and maintain the tension established when the slack is eliminated.

(3) Testing Agency. An organization which:

(A) Is in the business of testing equipment and installations;

(B) Is qualified and equipped for such experimental testing;

(C) Is not under the jurisdiction or control of any manufacturer or supplier for any affected industry;

(D) Maintains at least an annual inspection program of all equipment and installations currently listed or labeled;

(E) Makes available a published directory showing current listings of manufacturer's equipment and installations which have been investigated, certified and found safe for use in a specified manner and which are listed or labeled by the testing agency; and

(F) Is approved by the department.

(4) Tiedown Assembly. An assembly of component parts that has been tested and listed by agencies approved by the department as complying with the requirements of section 1336.1 of this chapter.

(5) Tiedown System. A tiedown system is used in conjunction with a support system and consists of the total number of tiedown assemblies required to provide a manufactured home or mobilehome with resistance to wind loads.

(u) –U–

(1) Unit. A manufactured home, mobilehome, multi–unit manufactured housing, or recreational vehicle.

(v) –V–

(1) Violation. A failure to conform to the requirements of this chapter, or any other applicable provision of law.

(2) Violation, Maintenance. A violation discovered during a maintenance inspection performed pursuant to section 18400.1 of the Health and Safety Code.

(w) –W–

(1) Water Connector. The flexible extension connecting the water distribution system of the unit or accessory building or structure to the park's lot water service outlet.

(2) Water Distribution System. All of the water supply piping within a park, extending from the main public supply or other source of supply to the park's lot water service outlets and including branch service lines, fittings, control valves, and appurtenances.

(3) Water Main, Park. That portion of the water distribution system which extends from the main, water meter, or other source of supply to the branch water service lines.

(4) Water Supply Connection. The fitting or point of connection of the unit's or accessory building or structure's water distribution system designed for connection to a water connector.

(5) Working Days. All days except Saturdays, Sundays, and applicable local, state and federal holidays.

(6) Workmanlike. Work performed to the acceptable quality of generally recognized industry standards that does not compromise strength, function, or durability.

(x) –X– Reserved

(y) –Y– Reserved

(z) –Z– Reserved

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18007, 18008, 18008.5, 18008.7, 18009.3, 18010, 18013.4, 18200, 18206, 18213, 18214.5, 18400.1, 18402, 18551, 18554, 18603, 18610, 18612, 18613, 18613.4, 18613.5, 18630, 18640, 18670, 18690, 18691, 18909 and 19960–19997, not consecutive, Health and Safety Code.

HISTORY

1. Repealer and new section filed 8–22–85; effective upon filing pursuant to Government Code section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
3. Amendment refiled 1–18–95 as an emergency, including new subsection (hhh) and subsection relettering; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 1–18–95 order including amendment of subsection (kk) transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
5. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
6. Amendment of section and NOTE filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
7. Editorial correction of subsections (c)(14) and (*l*) and HISTORY 6 (Register 2005, No. 33).
8. Amendment of subsections (a)(3), (e)(10), (f)(8)(M) and (s)(8) filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1004. Local Enforcement.

(a) Assumption of responsibility for the enforcement of Parts 2.1 and 2.3 of Division 13, of the California Health and Safety Code and the provisions of Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2, relating to enforcement within parks by a city, county, or city and county, shall be by means of an ordinance of the city council or board of supervisors which shall contain the following information and be subject to department approval:

(1) Indication of assumption of responsibility for enforcement of the Health and Safety Code, Parts 2.1 and 2.3 of Division 13, and Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2.

(2) Name of the agency or agencies delegated enforcement responsibilities.

(3) A statement that the designated local enforcement agency will provide qualified personnel necessary to enforce Parts 2.1 and 2.3, of Division 13 of the Health and Safety Code, and the provisions of Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2 consistent with those laws and regulations. The statement shall include the total number of personnel assigned to the enforcement program.

(4) One copy of any contract, memorandum of understanding, or other document governing delegation of responsibilities and services to a local government agency other than the local government assuming responsibility for Parts 2.1 and 2.3 of Division 13 of the Health and Safety Code, and Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2.

(5) Adoption of the applicable schedule of fees contained in the provisions of Parts 2.1 and 2.3 of Division 13 of the Health and Safety Code, and Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2.

(A) A statement adopting the state program and objectives as contained in Parts 2.1 and 2.3 of Division 13 of the Health and Safety Code, and Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2.

(B) A description of existing parks within the local jurisdiction, including conditions and type of park.

(C) Specific local objectives, program plan and timetable designed to achieve enforcement compliance.

(6) Effective date of assumption of enforcement.

(b) One certified copy of the ordinance shall be forwarded to the Administrative Office of the Division of Codes and Standards, P.O. Box 1407, Sacramento, CA 95812–1407 not less than thirty (30) days before the designated effective date of assumption of enforcement.

(c) A statement that the following forms provided by the department will be used:

(1) HCD 500A, Application for Permit to Operate;

(2) HCD 503B, Annual Permit to Operate;

(3) HCD 513B, Manufactured Home or Mobilehome Installation Acceptance;

(4) HCD 513C, Certificate of Occupancy.

(d) The department shall determine the local agency's knowledge and ability to apply the requirements of Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2, and the applicable Health and Safety Code requirements. The department's determination may include, but is not limited to, verification of the local agency's ability and knowledge through performance of activities that may include inspection, records review, and interviews of assigned personnel.

(e) Upon completion of the transfer, the new enforcing agency shall notify, in writing, the parks within its jurisdiction of the change in enforcement and the designated department or departments responsible for enforcement and permit issuance.

(f) Every enforcement agency shall comply with the verification of eligibility to receive public benefit requirements of Title 25, California Code of Regulations, Division 1, Chapter 5.5, commencing with section 5802, of applicants for permits to operate mobilehome parks or special occupancy parks.

(g) Notwithstanding the provisions of section 1005.5 of this article, in order to ensure that the orderly transition of assumption of enforcement occurs when a park, or permanent building within a park, is under construction, the enforcement agency issuing the permit to construct shall retain enforcement authority for the specified project through completion of those permits. All other enforcement responsibilities shall be transferred on the date as determined by the department.

(h) The local enforcement agency shall send a copy of each permit to operate it has renewed, within thirty (30) days after renewal to the department's Division of Codes and Standards, at the address designated by the department at the time of assumption.

(i) When a local enforcement agency proposes changes in the local division or personnel responsible for enforcing the provisions of this chapter, Chapter 2.2 and sections 18200 through 18874 of the Health and Safety Code, that agency shall notify the department at least thirty (30)

days prior to the proposed date of the changes. The department may perform a reevaluation to determine whether the personnel have the required knowledge and ability as required in subsection (d) of this section.

(j) When a local enforcement agency changes its address, phone number, or contact person, it shall notify the Administrative Office of the department in writing within thirty (30) days of the change.

NOTE: Authority cited: Sections 18300, 18613 and 18865, Health and Safety Code. Reference: Title 8 U.S.C. Sections 1621, 1641 and 1642; and Sections 18207, 18300, 18505, 18506, 18613 and 18865, Health and Safety Code.

HISTORY

1. Repealer of former Section 1004, and renumbering and amendment of former Section 1010 to Section 1004 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. New subsection (e), subsection relettering and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
3. New subsection (e), subsection relettering and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8–4–98 order transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).
5. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
6. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
7. Editorial correction of HISTORY 6 (Register 2005, No. 33).

§ 1004.5. Complaint Investigations.

(a) When a complaint alleging violations of this chapter, or sections 18200 through 18700 of the Health and Safety Code is referred to a local enforcement agency, the local enforcement agency shall do the following:

(1) Make reasonable efforts to contact the complainant to discuss the complaint. If the issue addressed within the complaint exceeds the authority or jurisdiction of the enforcement agency, the complainant shall be so advised, and shall be directed, when possible, to the appropriate governing entity.

(2) Investigate allegations of violations representing an immediate risk to life, health, or safety within five (5) days of receipt of the complaint by the agency.

(3) Investigate allegations of violations representing an unreasonable risk to health or safety within thirty (30) days of receipt by the agency.

(4) Discuss the results of the investigation with the complainant, or provide the results in writing, if requested by the complainant.

(b) When a complaint is referred to a local enforcement agency from the Office of the Mobilehome Ombudsman (Office), the local enforcement agency shall, no later than thirty–five (35) days following its receipt of the complaint, submit a written report detailing the final results of the investigation to the Office, or its designee.

(c) When an inspection as a result of a health and safety complaint results in a written order to correct for a violation of this chapter and a reinspection reveals that the cited person failed to correct the violation, the enforcement agency shall be compensated by the person responsible for correction of violation for any subsequent reinspection to verify correction of the violation at the following hourly rate.

(1) First hour: one hundred ninety–six dollars ($196).

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes or fractional part thereof: forty–one dollars ($41).

NOTE: Authority cited: Sections 18153 and 18300, Health and Safety Code. Reference: Sections 18153, 18300, 18400, 18400.3 and 18407, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Editorial correction of section heading (Register 2005, No. 33).
3. New subsections (c)–(c)(1)(B) filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 1005. Local Government's Cancellation of Enforcement Responsibility.

(a) An enforcement agency intending to relinquish responsibility for enforcement authority shall advise the department, no less than thirty (30) days prior to initiating the requirements of subsection (b).

(b) A governing body canceling its enforcement responsibility shall complete the following to the department's satisfaction before the transfer is effective:

(1) provide written notification to the department not less than thirty (30) days prior to the proposed effective date of the action, along with a copy of the adopted ordinance repealing enforcement responsibility;

(2) remit the appropriate fees to the department as identified in section 1006 of this article on or before the date of transfer of responsibility; and

(3) transfer all park records to the department on or before the effective date of the transfer of enforcement responsibility.

(c) When the local agency cancels its enforcement responsibility for this chapter, its responsibility for enforcement of chapter 2.2 of this division is also cancelled.

(d) When a local enforcement agency has canceled its assumption of responsibility for enforcement and desires to reassume enforcement, it must reapply in compliance with the requirements contained in section 1004 of this article.

NOTE: Authority cited: Sections 18300 and 18865, Health and Safety Code. Reference: Sections 18207, 18300 and 18865, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1005.5. Revocation of Local Enforcement Authority.

(a) When the department determines that a local enforcement agency has failed to properly enforce Parts 2.1 or 2.3, of division 13, of the Health and Safety Code, or Title 25, California Code of Regulations, division 1, chapters 2 or 2.2, the department shall notify the governing body of the local enforcement agency by providing written documentation which identifies the deficiencies requiring correction.

(b) The local enforcement agency shall have thirty (30) days from the date it receives the department's written determination to initiate correction of the deficiencies. Initiation of correction shall mean:

(1) Completion of a written plan of action submitted to the department identifying the corrective action for each deficiency including at least the following:

(A) Acknowledgement of the deficiencies.

(B) The action to be taken to correct each deficiency.

(C) The personnel involved in the correction.

(D) Timelines for completion of all corrections.

(E) Ongoing oversight to prevent reoccurrences of noted deficiencies.

(2) Implementation of the plan of action by the local enforcement agency and other actions required by the department prior to completion of the plan of action.

(c) The department shall, within thirty (30) days of receipt of the plan of action, review and provide a written response to the governing body regarding the proposed plan.

(d) If the local enforcement agency fails to prepare an adequate plan of action or implement corrective measures within thirty (30) days regarding the deficiencies specified in subsection (a), the department may revoke its approval of local assumption responsibility and resume enforcement responsibilities.

(e) Within thirty (30) days following the department's revocation of assumption approval, remit the appropriate fees as defined in section 1006 of this article and transfer all park records to the department.

(f) When a local enforcement agency has had its assumption of responsibility for enforcement revoked and desires to reassume enforcement, it must reapply following the requirements contained in section 1004 of this article.

NOTE: Authority cited: Section 18300 and 18865, Health and Safety Code. Reference: Section 18300 and 18865, Health and Safety Code.

HISTORY
1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1006. Transfer of Authority—Disbursal of Fees.

(a) When a city, county, or city and county assumes responsibility for the enforcement of parts 2.1 and 2.3, of division 13 of the Health and Safety Code, and Title 25, California Code of Regulations, division 1, chapters 2 and 2.2, cancels its assumption of such responsibility, or has assumption approval cancelled by the department during the permit renewal year, that portion of the fees collected for the annual permits to operate, other than state fees pursuant to section 1008 of this article, shall be apportioned as follows:

(1) When assumption of enforcement responsibility occurs more than six (6) months preceding the next permit to operate renewal date, the former enforcement agency shall retain one–half (1/2) of each annual permit to operate fee collected and shall transfer the remaining half to the assuming enforcement agency.

(2) When assumption of enforcement responsibility occurs less than or exactly six (6) months preceding the next permit to operate expiration date, the former enforcement agency shall then retain the full amount collected.

(b) The additional four dollar ($4) per lot fee collected for park maintenance inspections shall be remitted as set forth in Health and Safety Code section 18400.1.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18300, 18400.1 and 18502, Health and Safety Code.

HISTORY
1. Repealer of former Section 1006, and renumbering and amendment of former Section 1012 to Section 1006 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1006.5. Permit to Operate Required.

No person shall operate a park, or a portion of a park, or rent, lease, sublease, hire out, or let out for occupancy any new or existing lot in a park without a current permit to operate issued by the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18500 and 18505, Health and Safety Code.

HISTORY
1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1007. Applicant Documentation.

When applying for a permit to operate a park, or for the renewal or amendment of any such permit, if the applicant has not previously been determined to be eligible to receive public benefits, the applicant shall present to the enforcement agency such documentation as the department may require to demonstrate the applicant's eligibility to receive public benefits pursuant to Title 25, California Code of Regulations, division 1, chapter 5.5, beginning with section 5802.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Title 8, U.S.C. Sections 1621, 1641 and 1642; and Section 18300, Health and Safety Code.

HISTORY
1. New section filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–4–98 order, including amendment of section, transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).
4. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1008. Annual Permit to Operate Fees.

(a) Permit to operate fees shall be as follows:

(1) An annual permit to operate fee of twenty–five dollars ($25); and

(2) An additional two dollars ($2) per lot, or per campsite; and

(3) An additional four dollars ($4) dedicated per manufactured home or mobilehome lot to park maintenance inspections, and

(4) A state fee as contained in Table 1008–1.

Table 1008–1

Number of Lots	*State Fee*
2–19	$ 40
20–49	$ 75
50–99	$175
100–249	$400
250–499	$800
500 or more	$1,600

(b) The state fee is required to be paid annually.

NOTE: Authority cited: Sections 18300 and 18502.5, Health and Safety Code. Reference: Sections 18502 and 18502.5, Health and Safety Code.

HISTORY
1. Repealer and new section filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of subsection (a) filed 11–29–88; operative 12–29–88 (Register 88, No. 52).
3. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§.1009. Permit to Operate—Penalty Fees.

(a) Permits to operate shall have the following penalty fees applied as applicable:

(1) When an application is submitted thirty (30) days after the due date, the permit to operate fees shall be increased an amount equal to ten (10) percent of the established fee.

(2) When an application is submitted sixty (60) or more days late, the permit to operate fees shall be increased an amount equal to one hundred (100) percent of the established fee.

(3) Any park commencing operation without a valid permit to operate shall pay double the established fees and those fees shall be due upon demand of the enforcement agency.

(b) The postmark shall be used to determine the submittal date for imposing annual permit to operate penalty fees prescribed by Health and Safety Code section 18506.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18504 and 18506, Health and Safety Code.

HISTORY
1. Renumbering and amendment of former Section 1016 to Section 1009 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 11–29–88; operative 12–29–88 (Register 88, No. 52).
3. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1010. Permit to Operate—Construction Completed.

(a) Upon final approval by the enforcement agency of the construction of lots and facilities, the applicant shall submit an application for a permit to operate, or amended permit to operate, on a form designated by the department in section 1002 of this article, together with appropriate fees as specified in sections 1008 and 1009 of this article, to the enforcement agency. The designated form shall be submitted as follows:

(1) When the department is the enforcement agency, the applicant shall submit the application for permit to operate to the department. Upon approval of the application by the department, an annual permit to operate shall be issued to the applicant.

(2) When a local enforcement agency has enforcement responsibilities, the applicant shall submit the application to that agency. Upon approval of the application by the local enforcement agency, that agency shall provide one copy of the approved application to the applicant and, within five (5) working days after approval, one copy, along with the state fees required by section 1008 of this article, to the Division of Codes and Standards, P.O. Box 1407, Sacramento, CA 95812–1407. The Division of Codes and Standards shall issue the initial permit to operate within ten (10) working days of receipt of the approved application. The department shall provide copies of the permit to operate to the applicant and the local enforcement agency. Subsequent years' annual permits to operate shall be issued by the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18502 and 18505, Health and Safety Code.

HISTORY
1. Renumbering and amendment of former Section 1010 to Section 1004, and renumbering and amendment of former Section 1018 to Section 1010 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1012. Department Copies of the Annual Permit to Operate and Related Fees.

(a) Local enforcement agencies shall send a copy of each issued annual permit to operate to the Division of Codes and Standards within thirty (30) days following its issuance.

(b) All local enforcement agencies shall forward to the Division of Codes and Standards, the state fees paid by the applicant pursuant to section 1008 of this article within thirty (30) days of receipt.

(c) The department shall provide a supply of the annual permit to operate forms and application for permit to operate forms to any local enforcement agency making a request for the forms.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18502, 18502.5, 18505 and 18506, Health and Safety Code.

HISTORY
1. Renumbering and amendment of former Section 1012 to Section 1006, and renumbering and amendment of former Section 1020 to Section 1012 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1014. Required Reporting of Changes in Park Status.

(a) An operator of a park shall submit to the enforcement agency, an application for an amended annual permit to operate within thirty (30) days of any change in the information related to the annual permit to operate. Changes in information shall include, but not be limited to:

(1) change of name, mailing address, or ownership; or

(2) change in the number of lots resulting from the sale, lease, removal, construction, or alteration of existing lots or facilities; or

(3) change of conditional uses specified on the annual permit to operate; or

(4) when a snow load roof maintenance program status is changed pursuant to section 1338 of article 7.

(b) A fee of ten dollars ($10) shall be submitted to the enforcement agency with each application to amend the annual permit to operate. Only one (1) fee of ten dollars ($10) shall be required for an amended annual permit to operate, if more than one (1) change can be processed on a single application.

(c) An amended permit to operate shall be issued by the department for additional lots constructed to an existing park. The local enforcement agency shall process the application as specified in section 1010 of this chapter for permit issuance for new construction.

(d) Notwithstanding subsection (c), when an amended permit to operate is issued by a local enforcement agency, a copy shall be forwarded to the department, within thirty (30) days, clearly marked as "Amended" on the face of the copy.

NOTE: Authority cited: Section 18300 and 18502.5, Health and Safety Code. Reference: Sections 18502, 18502.5, 18505 and 18507, Health and Safety Code.

HISTORY
1. Repealer of former Section 1014, and renumbering and amendment of former Section 1022 to Section 1014 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer and new section heading and amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1016. Approval of Alternates and Equivalents.

(a) When the department is the enforcement agency, a request for approval of an alternate or equivalent means of meeting the requirements of this chapter shall be submitted by the applicant to the department's Northern or Southern area office.

(b) When a city, county, or city and county has assumed enforcement responsibility for this chapter, the applicant shall submit the request for this approval to the local enforcement agency. The local enforcement agency shall forward the request to the department's Administrative Office of the Division of Codes and Standards, along with their written recommendation and rationale for approval or denial.

(c) The request for an alternate approval shall be submitted on forms, as defined in Section 1002 of this chapter, provided by the department. The form shall be accompanied by one (1) set of substantiating plans and/or information together with the alternate approval fee of two hundred three dollars ($203), payable to the department.

(d) When a request for an alternate approval is for the park, or significantly affects property owned or operated by the park, including, but not limited to, grading, utilities and setbacks, only the park owner or operator may apply for the alternate approval.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18305 and 18502.5, Health and Safety Code.

HISTORY
1. Renumbering and amendment of former Section 1016 to Section 1009, and new Section 1016 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85. No. 36).
2. Amendment of subsection (b) filed 11–29–88; operative 12–29–88 (Register 88, No. 52).
3. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
4. Amendment filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).
5. Amendment filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1017. Technical Service Fee.

(a) Fees for technical services provided by the enforcement agency shall be:

(1) One hundred ninety–six dollars ($196) providing the technical service does not exceed one hour. When the related technical service exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

NOTE: Authority cited: Sections 18300 and 18502.5, Health and Safety Code. Reference: Sections 18502.5 and 18503, Health and Safety Code.

HISTORY
1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 1018. Permits Required.

(a) No person shall erect, construct, reconstruct, install, replace, relocate or alter any building, structure, accessory building or structure, or building component; any electrical, mechanical, or plumbing equipment; any fuel gas equipment and installations, or fire protection equipment; or installations of, or within, a park, or a lot, or perform any non–load bearing grading or area fill with a depth of one (1) foot or greater, unless exempted from obtaining a grading permit pursuant to Appendix 33 of the California Building Code, without first obtaining a written construction permit from the enforcement agency.

(b) No person shall create or change a lot line within a park without first obtaining a permit from the enforcement agency pursuant to the requirements of section 1105 of this chapter.

(c) Any person issued a notice indicating violations pursuant to this section, shall obtain the required permit from the enforcement agency and provide the appropriate fees as prescribed in this article.

(d) The enforcement agency shall not require a permit to construct for the following work, when the construction is performed in a workmanlike manner, does not present a hazard, and otherwise complies with the requirements of this chapter:

(1) Minor maintenance and repair including the replacement of existing utility metering devices.

(2) Previously installed portable air conditioning equipment reinstalled with the unit installation.

(3) The installation of a storage cabinet on a lot.

(4) Construction or installation of a stairway having a landing not to exceed twelve (12) square feet.

(5) A landing not more than twelve (12) square feet in area.

(6) Construction or installation of a window or door awning.

(7) Construction or installation of removable insect screening, flexible plastic or canvas type material used as an awning or as awning or carport enclosures.

(8) Construction or installation of a retaining wall less than four (4) feet in height measured from the bottom of the footing to the top of the wall, unless it is supporting a surcharge. For the purpose of this section, a surcharge is any additional soil or load placed on the existing soil retained by the wall.

(9) Construction or installation of a patio, as defined in section 1002(p)(3).

(10) Fences not over six (6) feet high.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18500, 18507, 18551, 18610, 18610.5 and 18613, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 1018 to Section 1010, and renumbering and amendment of former Section 1026 to Section 1018 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
3. Amendment of section and NOTE filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
4. Editorial correction of HISTORY 3 (Register 2005, No. 33).

§ 1019. Installation of Factory–Built Housing in Parks.

(a) Factory–built housing, meeting the requirements of Division 13, Part 6 of the California Health and Safety Code, may be installed on a lot in a park only if all of the following conditions apply:

(1) the park was constructed on or after January 1, 1982,

(2) the park is granted a zone designation or a conditional use permit authorizing this type of permanent occupancy,

(3) it is installed on a foundation system,

(4) it does not exceed two (2) stories in height, and

(5) it is located on a specific designated lot in the park defined in the park's rules or regulations.

(b) The local jurisdiction where the park is located shall be the enforcing agency for the inspection of the installation of factory–built housing in a park. The provisions of section 19993 of the Health and Safety Code regarding zoning, snow loads, wind pressure, fire zones, setbacks, yard and development requirements, property line requirements, and architectural and aesthetic requirements for factory–built housing in parks are specifically and entirely reserved to local jurisdictions and shall apply to factory–built housing installed in parks.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18611, 19971, 19992 and 19993, Health and Safety Code.

HISTORY

1. New section filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
2. Editorial correction of HISTORY 1 (Register 2005, No. 33).

§ 1020. Application Requirements for Permits for Installations and Foundation Systems for MH–Units.

(a) A person required to obtain a permit to install an MH–unit pursuant to section 18613 or 18551 of the Health and Safety Code, shall submit an application for the permit to the enforcement agency on a form prescribed by that agency.

(1) The application shall be accompanied by fees as specified in section 1020.1 of this article.

(2) When an MH–unit is initially installed or reinstalled on a different lot pursuant to Health and Safety Code section 18613, either a tiedown system or an engineered tiedown system must also be installed.

(3) When concrete piers or steel piers are used as the support system for an MH–unit, the installation of the MH–unit must include mechanical connection of each pier both to the MH–unit and to its footing that complies with section 1336.4 of this chapter.

(4) The applicant for a permit to install an MH–unit shall provide, with the application, a complete set of plans and specifications to include the following:

(A) A set of the manufacturer's installation instructions stamped to indicate approval by the manufacturer's design approval agency.

(B) Three copies of a plot plan of the lot on which the MH–unit is proposed to be installed. The plot plan shall indicate the planned location of the MH–unit, the locations of electrical, gas, water and sewer connections on the lot and all required dimensions and setbacks from the lot lines and from any buildings or accessory structures on the lot and adjacent lot. At least one (1) copy of the plot plan shall bear the original signature of the park owner or his or her designated representative.

(C) If the MH–unit manufacturer's installation instructions do not provide for a tiedown system, the applicant shall provide either installation instructions for listed tiedown assemblies that will be installed as a tiedown system in accordance with section 1336.2 of this chapter, or a set of engineered plans and specifications for an engineered tiedown system.

(D) The appropriate application shall be accompanied by fees as specified in subsection 1020.1 of this article.

(b) Foundation Systems. When a foundation system is to be installed for an MH–unit, a separate permit to construct the foundation system shall be obtained from the enforcement agency.

(1) The appropriate application shall be accompanied by fees as specified in subsection 1020.1 of this article.

(2) A person submitting an application for a permit to construct a foundation system shall submit three complete sets of plans and specifications in compliance with section 1034 of this chapter.

(c) Installation of multi–unit manufactured housing in a park requires approval as required in subsection 1020.6 (d), along with submission of a permit application. Evidence of this approval must accompany the permit application.

(d) When the application for a permit to construct does not comply with this chapter, the enforcement agency shall notify the applicant in what respects the application does not comply within ten (10) working days of the date they are received by the enforcement agency. When the applicant resubmits the application, an additional application filing fee may be required.

NOTE: Authority cited: Sections 18300, 18502.5, 18503, 18551, 18552, 18613 and 18613.4, Health and Safety Code. Reference: Sections 18008.7, 18500, 18501, 18503, 18551, 18551.1, 18611 and 18613 Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 1020 to section 1012, and renumbering and amendment of former section 1028 to section 1020 filed 8–22–85; effective upon filing pursuant to Government Code section 11346.2(d) (Register 85, No. 36).
2. Amendment of subsections (c) and (e)–(g) filed 11–29–88; operative 12–29–88 (Register 88, No. 52).
3. Amendment of section heading, text and NOTE filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of section heading, text, and NOTE refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 1–18–95 order including amendment of subsections (c) and (g)(4) transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
6. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1020.1. Fees for MH–Unit Installation and Standard Plan Approval Foundation System Permits.

(a) The following fees shall apply:

(1) Installation of an MH–unit, or multi–unit manufactured housing containing not more than two (2) dwelling units, or support system alteration permit fee. One hundred ninety–six dollars ($196) provided the related inspection does not exceed one hour. When the related inspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

(2) Foundation system permit fee: refer to valuation tables in Section 1020.7 of this article.

(A) Plan check fees shall not be required for a foundation system for which a standard plan approval has been obtained from the department.

(3) Reinspection Fee: One hundred seventy–eight dollars ($178) provided the related reinspection does not exceed one hour. When the related reinspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty minutes (30), or fractional part thereof: forty–one dollars ($41).

NOTE: Authority cited: Sections 18300, 18502.5, 18551 and 18613, Health and Safety Code. Reference: Sections 18500, 18501, 18502, 18503, 18551 and 18613, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 1020.3. Application Requirements for Permits for Accessory Buildings and Structures and Building Components.

(a) A person required to obtain a permit to install an accessory building or structure or building component, shall submit an application for the permit to construct to the enforcement agency, on a form prescribed by that agency.

(b) The application for the permit to construct shall be accompanied by fees as specified in section 1020.7 of this article, or section 1020.4 when using plans with a standard plan approval.

(c) A person submitting an application for a permit to construct an accessory building or structure or install a building component shall, in addition to the requirements of section 1034 of this chapter, submit three (3) copies of a plot plan for the lot where the accessory building or structure or building component is to be constructed. The plot plan shall be on the form prescribed by the department, indicating the planned location of the accessory building or structure or building component on the lot and indicate dimensions of and setbacks from the lot lines and other units or structures on adjacent lots. At least one (1) copy of the plot plan shall bear the original signature of the park owner or his or her designated representative.

(d) When any person files applications simultaneously to construct or install two (2) or more accessory buildings or structures or building components which are identical, and are within the same park, only one (1) plan check fee shall be required.

(e) If an application for a permit to construct is not complete or does not conform to the requirements of this chapter, the enforcement agency shall notify the applicant in writing within ten (10) working days of receipt of the application, as to the why the application does not comply.

(f) A single permit may be issued for all accessory buildings or structures or building components to be erected or installed concurrently on the same lot including electrical, mechanical, and plumbing installations for each accessory building or structure or building component. If the applicant requests individual permits, they may be obtained for structural, electrical, mechanical, and plumbing installations, and are subject to separate individual fees.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: 18300, 18500, 18502.5 and 18552 Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1020.4. Fees for Accessory Buildings or Structures, and Building Component Permits With a Standard Plan Approval.

(a) The following permit fees shall apply for accessory buildings and structures, and building components that have a standard plan approval:

(1) Inspection fee: One hundred ninety–six dollars ($196) provided the related inspection does not exceed one hour. When the related inspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

(2) Reinspection fee: One hundred seventy–eight dollars ($178) provided the related reinspection does not exceed one hour. When the related reinspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

(b) Fees for accessory buildings and structures, and building components that do not have the department's standard plan approval issued in accordance with Section 1020.9 of this article, shall be determined using the valuation table contained in Section 1020.7 of this article.

(c) Electrical, mechanical, and plumbing permit fees for installations in accessory buildings or structures or building components shall not exceed those contained in this chapter.

(d) Plan check fees shall not be required for accessory buildings or structures for which a standard plan approval has been obtained from the department.

NOTE: Authority cited: Section 18300, 18502.5 and 18552, Health and Safety Code. Reference: Sections 18300, 18500, 18502, 18502.5, 18503 and 18552, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (b) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of subsection (a)(3) and HISTORY 3 (Register 2005, No. 33).
4. Amendment of section heading and section filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 1020.6. Application Requirements for Permits for Park Construction or Alteration.

(a) This section applies to any person submitting an application pursuant to section 1018, for a permit to construct or alter any of the following:

(1) A park;

(2) An addition to a park;

(3) An alteration to a park;

(4) A permanent building in a park;

(5) An accessory building or structure without a standard plan approval.

(b) A person who is required to obtain a permit to construct, pursuant to section 18500 of the Health and Safety Code, shall submit an application for a permit to construct to the enforcement agency, with the appropriate fees as specified in section 1020.7 of this article, on the form prescribed by that agency.

(c) A person submitting an application pursuant to this section, shall submit three (3) complete sets of plans and specifications or installation instructions, in compliance with section 1034 of this chapter.

(d) Applications for permits to construct or enlarge a park, or install a multi–unit manufactured housing, shall be submitted with written evidence of compliance with the California Environmental Quality Act (Public Resources Code Division 13, commencing with section 21000) and written evidence of approvals by all of the following:

(1) the local planning agency;

(2) the local health, fire, and public works departments;

(3) the local department responsible for flood control;

(4) the serving utilities; and

(5) any other state or federal agency or special district that has jurisdiction and would be impacted by the proposed construction.

NOTE: Authority cited: Sections 18300, 18502.5 and 18503, Health and Safety Code. Reference: Sections 18500, 18501, 18502, 18502.5, 18503 and 18610 Health and Safety Code; and Section 21000, Public Resources Code.

HISTORY

1. New section filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1020.7. Permit Fees for Park Construction or Alteration.

(a) Any person submitting an application for a permit to construct with plans not having a department standard plan approval, shall pay the following fees, as applicable:

(1) Permit Fee. For the purpose of determining fees, the enforcement agency may establish the permit fee in accordance with subsection (f) or (g) of this section as appropriate. However, the minimum permit fee shall be one hundred ninety-six dollars ($196) provided the initial related inspection associated with this permit does not exceed one hour. When the related inspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty-two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty-one dollars ($41).

(2) Plan Check Fee. One-half (1/2) of the combined total of construction, mechanical, plumbing, and electrical permit fees. However, the minimum fee shall be ten dollars ($10).

(b) Reinspection Fee. One hundred seventy-eight dollars ($178) provided the related inspection does not exceed one hour. When the related inspection exceeds one hour, the following fees shall apply:

(1) Second and subsequent whole hours: eighty-two dollars ($82).

(2) Each thirty (30) minutes, or fractional part thereof: forty-one dollars ($41).

(c) When any person files applications simultaneously to construct two (2) or more permanent buildings, or accessory buildings or structures which are identical and are within the same park, only one (1) plan check fee shall be required.

(d) Electrical, mechanical, and plumbing permit fees shall not exceed those contained in this chapter.

(e) When plans and specifications fail to comply with the requirements of this chapter, the enforcement agency shall notify the applicant in writing, stating in what respects the plans do not comply. The applicant shall correct the plans and/or specifications and resubmit them to the enforcement agency. The following fees are required for each resubmission of plans or specifications subsequent to the initial plan check:

(1) Plan Check Fee: Two hundred three dollars ($203) provided the related plan check does not exceed one hour. When the related plan check exceeds one hour, the following shall apply:

(A) Second and subsequent whole hours: ninety-two dollars ($92).

(B) Each thirty (30) minutes, or fractional part thereof: forty-six dollars ($46).

(f) Fees for construction or alteration of facilities and installations on lots and within parks shall be the sum of the following categories comprising the proposed work subject to the minimum amounts specified in subsection (a)(1):

(1) For each lot $5.75

(2) Electrical Permit Fees.

- Each park electrical service 14.00
- Each unit substation or secondary distribution transformer 10.50
- Each alteration or replacement of a service or a transformer 10.50
- Each park lot electrical service equipment 7.00
- Each alteration, repair, or replacement of a park lot electrical service equipment 7.00
- Each street light including circuit conductors and control equipment 3.00

(3) Plumbing Permit Fees.

- Each park sewage drainage system 14.00
- Each private sewage disposal system or park water treatment installation 14.00
- Each lot drain inlet 7.00
- Each alteration or repair of drainage or vent piping 7.00
- Each park water distribution system 7.00
- Each park lot water service outlet or outlets at the same location 4.25
- Each fire hydrant or riser 4.25
- Each individual lot water conditioning installation 4.25
- Each alteration, repair or replacement of water fixtures or equipment 4.25

(4) Gas Piping Permit Fees.

- Each park gas piping system 7.00
- Each installation of a liquefied petroleum or natural gas tank of 60 gallon capacity or more 7.00
- Each gas riser outlet 4.25
- Each alteration, repair, or replacement of park's gas piping system 4.25

(5) Each installation of equipment regulated by this chapter for which no other fee is listed 7.00

(g) Permit fees for a permit to construct accessory buildings or structures without a standard plan approval from the department, and foundation systems, permanent buildings, and/or electrical, mechanical, and plumbing installations within or on permanent buildings, or accessory buildings or structures shall be the sum of the following categories comprising the proposed work subject to the minimum amounts specified in subsection (a)(1).

(1) Table A. Construction Permit Fees.

Total Valuation	*Fee*
$2,000 or less	$45.00
$2,001 to $25,000	$45.00 for the first $2,000 plus $9.00 for each additional thousand or fraction thereof, to and including $25,000.
$25,001 to $50,000	$252.00 for the first $25,000 plus $6.50 for each additional thousand or fraction thereof, to and including $50,000.
$50,001 to $100,000	$414.50 for the first $50,000 plus $4.50 for each additional thousand or fraction thereof, to and including $100,000.
$100,001 to $500,000	$639.50 for the first $100,000 plus $3.50 for each additional thousand or fraction thereof, to and including $500,000.
$500,001 to $1,000,000	$2,039.50 for the first $500,000 plus $3.00 for each additional thousand or fraction thereof, to and including $1,000,000.
$1,000,001 and up	$3,539.50 for the first $1,000,000 plus $2.00 for each additional thousand or fraction thereof.

(2) Table B. Mechanical and Plumbing Permit Fees.

- Each plumbing fixture, trap, set of fixtures on one trap, including water, drainage piping and backflow protection therefore $3.00
- Each building sewer 14.00
- Each private sewage disposal system 14.00
- Each water heater and/or vent 7.00
- Each gas piping system for one to five outlets 7.00
- Each gas piping system for six or more outlets, per outlet 1.50
- Each gas regulator 1.50
- Each water branch service outlet or outlets at the same location, or each fixture supply 1.00
- Each installation of water treating equipment 7.00
- Alteration or repair of water piping or water treating equipment 7.00
- Alteration or repair of drainage or vent piping 7.00
- Each lawn sprinkler system on any one meter, including backflow protection devices 7.00
- Vacuum breakers or backflow protective devices on tanks, vats, etc., or for installation on unprotected plumbing fixtures: one to five 3.00
- over five, each additional 1.00
- The installation or relocation of each forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance, up to and including 100,000 Btu 14.00
- The installation or relocation of each forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance over 100,000 Btu 21.00
- The installation or relocation of each floor furnace, including vent 7.00
- The installation or relocation of each suspended heater, recessed wall heater or floor-mounted unit heater 7.00

The installation, relocation or replacement of each appliance vent installed and not included in an appliance permit	7.00
The repair of, alteration of, or addition to each heating appliance, refrigeration unit, comfort cooling unit, absorption unit, or each comfort heating, cooling, absorption, or evaporative cooling system, including installation of controls	14 .00
The installation or relocation of each boiler or compressor to and including three horsepower or each absorption system to and including 100,000 Btu	14.00
The installation or relocation of each boiler or compressor over three horsepower or each absorption system over 100,000 Btu.	21.00
Each air handling unit, including ducts attached thereto	7.00

NOTE: This fee shall not apply to an air handling unit which is a portion of a factory–assembled appliance, comfort cooling unit, evaporative cooler or absorption unit for which a permit is required elsewhere in this chapter.

For each evaporative cooler other than portable type	7.00
For each vent fan connected to a single duct	3.00
For each vent ventilation system which is not a portion of any heating or air conditioning system authorized by a permit	7.00
Each installation of equipment regulated by this chapter for which no other fee is listed	7.00

(3) Table C. Electrical Permit Fees.

Each wiring outlet where current is used or controlled, except services, sub–feeders and meter outlets	.35
Each fixture, socket or other lamp holding device	.35
Each motor of not more than 50 h.p	4.25
Each motor of more than 50 h.p	10.50
Each mercury arc lamp and equipment	1.00
Each range, water heater or clothes dryer installation	7.00
Each space heater or infrared heat installation	1.50
Each stationary cooking unit, oven, or space heater	1.50
Each garbage disposer, dishwasher, or fixed motor–operated appliance not exceeding 1/2 h.p	1.50
Working light in buildings in course of construction or undergoing repairs, or where temporary lighting is to be used	3.00
Each incandescent electric sign	1.50
Electric signs or outline lighting, luminous gas type with: 1 to 4 transformers	3.00
Additional transformers, each	.35
Each rectifier and synchronous converter, per K.W	.35
Each additional circuit for a mobile home accessory building or structure or other electrical equipment	1.50
Each service:	
600 volts or less, not over 200–amperes	7.00
600 volts or less, over 200–amperes	10.00
Over 600 volts	14.00
Each installation of equipment regulated by this chapter for which no other fee is listed	7.00

NOTE: Authority cited: Sections 18300, 18502.5 and 18552, Health and Safety Code. Reference: Sections 18502, 18502.5 and 18503, Health and Safety Code.

HISTORY

1. Renumbering of former section 1022 to new section 1020.7, including amendment of section heading and section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 1020.9. Application and Fee Requirements for Accessory Building, Foundations System, or Engineered Tiedown System Standard Plan Approvals.

(a) A standard plan approval is available from the department for a plan for an accessory building or structure constructed and installed pursuant to this article and Article 9 of this chapter, for a foundation system installed pursuant to Section 18551 of the Health and Safety Code, and Section 1333(d) of this chapter, and for an engineered tiedown system designed pursuant to section 1336.3 of this chapter.

(b) In order to obtain a standard plan approval, the applicant shall submit to the department the following items:

(1) A completed application for standard plan approval on the form, as defined in Section 1002 of this chapter, designated by the department.

(2) Three (3) copies of the plans, specifications, and installation instructions, if applicable, and two (2) copies of the design calculations, when required, to substantiate the design. Specifications shall be shown on the plan. Design calculations shall be submitted separately from the plan sheet.

(3) An application fee of two hundred three dollars ($203) for each plan.

(4) Plan check fee for initial, resubmission, or renewal. Two hundred three dollars ($203) providing the related plan check does not exceed one hour. Where the related plan check exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: ninety–two dollars ($92).

(B) Each thirty (30) minutes, or fractional part thereof: forty–six dollars ($46).

(5) Additional plan check fees shall be due and payable prior to the issuance of a plan approval or a revised plan approval, if more than one (1) hour is required to conduct the plan check.

(6) When plans and specifications fail to comply with the requirements of this chapter, the enforcement agency shall notify the applicant in writing, stating in what respects the plans do not comply. The applicant shall correct the plans and/or specifications and resubmit them to the enforcement agency or withdraw them from consideration, forfeiting all submitted fees.

(7) An Identification Label of Approval shall be provided for each accessory building or structure to be manufactured under the standard plan approval and each accessory building or structure shall have an approved identification label of approval attached in a visible location.

(8) The actual identification label shall be submitted to the department for approval with the application for a standard plan approval prior to issuance of the approval. The approved identification label of approval shall:

(A) be not less in size than three (3) inches by one and one–half (1 1/2) inches;

(B) contain the following information, as applicable;

ACCESSORY BUILDING OR STRUCTURE

1. Name of Manufacturer

2. Standard Plan Approval No. ____

3. Designed for:

____lbs. per square foot roof live load

____lbs. per square foot horizontal wind load

____lbs. per square foot snow load

____lbs. per square foot floor live load

____lbs. per square foot wind uplift load

4. Structure (may) (may not) be enclosed.

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(C) be provided by the manufacturer and be permanently imprinted with the information required by this section;

(9) The identification label of approval shall be either Type I, II, or III as specified in this section, each capable of a ten–year life expectancy when exposed to ordinary outdoor environments. Letters and numbers shall be bold Gothic or similar style, varied for emphasis, as large as space permits, with the minimum size being 5/64 inches. Wording shall be easily read and concise. Where permanent type adhesives are used on Type I, II, or III plates, adhesives shall have a minimum thickness of .004 inches, and the plates shall be affixed to a relatively smooth surface.

(A) Type I. Rigid metal plates affixed by screws, rivets, or permanent type adhesives. Minimum size: One and one–half (1 1/2) inches by three (3) inches by .020 inches thick net dimensions (inside fastener heads). Material: Aluminum, brass or stainless steel etched, stamped, engraved,

or embossed to 0.015 inches minimum depth differential, color anodized or enamel filled.

(B) Type II. Flexible metal plates affixed by permanent adhesives, either pressure sensitive acrylics or solvent activated resins.

Minimum Size: .005 inches by one and one–half (1 1/2) inches by three (3) inches. Material: Aluminum foil etched or stamped to .001 inches minimum depth differential with color anodized background.

(C) Type III. Metallized Mylar (polyester), surface bonded.

Minimum Size: .003 inches by one and one–half (1 1/2) inches by three (3) inches.

Material: Aluminum/vinyl surface bonded (to be used for nameplates where variable information is required by embossing, which can be done with a conventional typewriter). Minimum Size: .006 inches by one and one–half (1 1/2) inches by three (3) inches.

(c) Plans submitted to the department shall be on sheets of paper no smaller than eight and one–half (8 1/2) inches by eleven (11) inches, and no larger than thirty (30) inches by forty–two (42) inches.

(1) Plans shall indicate the details of connections, dimensions, footings, foundations, general notes and method of installation necessary for the design and construction of the system.

(2) A plan shall indicate only one model or type of system.

(3) Each plan sheet shall provide a space not less than three (3) inches by three (3) inches for the department's standard plan approval stamp and number.

(4) When the design of the system requires an engineering analysis of structural parts and methods of construction, such as required for an engineered tiedown system or engineered accessory building or structure, the plans, specifications, and calculations shall be signed by an architect or engineer.

(5) Each plan shall be identified by a model number.

(d) If an application or plans are incomplete or do not conform to this chapter, the applicant shall be notified in writing within ten (10) working days of the date they are received by the department. The applicant shall resubmit a corrected application or plans within ninety (90) days of the notice, or within ninety (90) days of any subsequent notification relating to a resubmittal, along with the fees required by Section 1020.9 of this section.

(e) Should the applicant cancel the application for the standard plan approval prior to obtaining department approval, all fees submitted will be retained by the department for services rendered.

(f) A standard plan approval shall expire twenty–four (24) months from the date of the department's approval as designated on the department's stamp of approval placed on the plans.

(g) A standard plan approval may be renewed on or before the expiration date by submitting an application, together with three (3) copies of the plan as required by subsections (b)(1) and (2), and a renewal fee of two hundred three dollars ($203).

(1) Renewal of a standard plan approval is permitted only when the plan submitted is identical to the plan on file with the department.

(2) Each plan submitted for renewal shall provide a space not less than three (3) inches by three (3) inches for the department's standard plan approval stamp and number.

(3) When a standard plan approval is renewed, the department–issued number shall remain the same.

(h) An application for approval of revisions to a standard plan approval, which does not change the structural system or method of the system's construction, and is submitted prior to the approval's expiration date, shall be submitted with the following documentation:

(1) three (3) copies of the revised plan and specifications;

(2) two (2) copies of the revised design calculations, as required by subsection (b)(2); and

(3) the plan check fee, for the first hour, for each plan.

(i) An applicant with a revised standard plan approval shall submit the following to the department:

(1) an application for a standard plan approval as specified in subsection (b)(1) above;

(2) copies as specified in subsections (h)(1) and (2) above; and

(3) a resubmission fee, as specified in Section 1020.9 above, for each plan.

(j) A revised plan submitted pursuant to Section 1020.9 above, shall be processed as provided by subsection (h) or subsection (i), depending upon whether or not the changes to the plan are substantive. A plan submitted after the final expiration shall be processed as a new application with appropriate fees assessed.

(k) When amendment of applicable laws or the department's regulations requires changes to an approved plan, the department shall:

(1) notify the applicant of the changes, and

(2) allow the applicant one hundred eighty (180) days from the date of notification to submit a revised plan for approval or until the expiration date of the standard plan approval, whichever occurs first.

(*l*) Written approval shall be evidenced by the department's stamp of approval on the plans. The stamp of approval shall include a unique department–issued standard plan approval identification number for each approved plan, specification, or installation instruction.

(m) Standard plan approval for each accessory building or structure, foundation system, or engineered tiedown system is contingent upon compliance with the requirements of this article. The department may conduct inspections to determine compliance with an approved plan. Violation of any of the provisions of this article or variations from an approved plan shall be cause for cancellation of the standard plan approval.

(n) Reproductions of an approved plan bearing a department–issued standard plan approval for the purpose of obtaining a permit to construct a foundation system or accessory building or structure shall be clear and legible.

(o) When an applicant who has obtained a standard plan approval discontinues the business, has notified the department, or the department makes that determination, the standard plan approval shall be canceled.

(p) The department shall be notified of any change in the name of an applicant or change in name or ownership of an applicant's business. The department may grant a standard plan approval to the new owner, if the new owner provides a written certification that the accessory building or structure foundation system or engineered tiedown system will be constructed in accordance with the existing standard plan approval and submits the completed form designated by the department, together with a ten dollar ($10) fee. The certification, application, and fee shall be submitted for each plan with a separate standard plan approval.

(q) An applicant shall notify the department, in writing, within ten (10) days of any change to their address. The notification shall be accompanied with a ten dollar ($10) change of address fee.

(r) Plans with a standard plan approval from the department shall be accepted by the enforcement agency as approved for the purpose of obtaining a construction permit when the design loads and allowable soil conditions specified in the plans are consistent with the requirements for the locality. Local enforcement agencies shall not require the original signature of the architect or engineer on the standard plan approval.

NOTE: Authority cited: Sections 18300, 18502, 18502.5, 18551 and 18613.4, Health and Safety Code. Reference: Sections 18502, 18502.5, 18551, 18552 and 18613.4, Health and Safety Code.

HISTORY

1. Renumbering of former section 1026 to new section 1020.9, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of section heading and section filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 1022. Construction and Alteration Permit Fees.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18502, 18502.5, and 18503, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 1022 to Section 1014, and renumbering and amendment of former Section 1040 to Section 1022 filed 8–22–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Amendment of subsection (e)(2) filed 11–29–88; operative 12–29–88 (Register 88, No. 52).

3. Renumbering of former section 1022 to new section 1020.7 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1024. Building Permit Fees.

NOTE: Authority cited: Sections 18300, 18502.5 and 18552, Health and Safety Code. Reference: Sections 18502 and 18503, Health and Safety Code.

HISTORY

1. Repealer of former Section 1024, and renumbering and amendment of former Section 1042 to Section 1024 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 11–29–88; operative 12–29–88 (Register 88, No. 52).
3. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1025. Earthquake Resistant Bracing System Fees.

(a) Certification application fee, two hundred three dollars ($203).

(b) Certification Renewal fee, two hundred three dollars ($203).

(c) Certification review fees. Two hundred three dollars ($203) providing the related certification review does not exceed one hour. When the related certification review exceeds one hour, the following fees shall apply:

(1) Second and subsequent whole hours: ninety–two dollars ($92).

(2) Each thirty (30) minutes, or fractional part thereof: forty–six dollars ($46).

The balance of certification review fees due shall be paid to the department prior to the issuance of certification.

(d) When the department is the enforcement agency:

(1) Inspection or reinspection fee. One hundred ninety–six dollars ($196) provided the related inspection or reinspection does not exceed one (1) hour. When the related inspection or reinspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

(2) A minimum fee of one hundred ninety–six dollars ($196) shall be submitted with each application for a permit or reinspection. Any additional fees required shall be paid upon completion of the inspection or reinspection.

(e) Change of ERBS–manufacturer's name, ownership or address fee, sixty–two dollars ($62).

NOTE: Authority cited: Sections 18502.5, 18613.5 and 18613.7, Health and Safety Code. Reference: Sections 18300, 18502.5, 18613.5 and 18613.7, Health and Safety Code.

HISTORY

1. Renumbering of former section 1376 to new section 1025, including amendment of section heading and section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 1026. Standard Plan Approval.

NOTE: Authority cited: Sections 18300, 18502, 18502.5, 18551 and 18613.4, Health and Safety Code. Reference: Sections 18502, 18502.5, 18551 and 18613.4, Health and Safety Code.

HISTORY

1. Renumbering and amendment of Section 1026 to Section 1018 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Redesignation and amendment of former section 2860 Appendix C to section 1026 filed 5–12–95; operative 5–12–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 19).
3. Renumbering of former section 1026 to new section 1020.9 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1028. Permit for Mobilehome Installation.

NOTE: Authority cited: Section 18300 and 18502.5, Health and Safety Code. Reference: Sections 18502, 18502.5 and 18613, Health and Safety Code.

HISTORY

1. Amendment filed 3–2–81; effective thirtieth day thereafter (Register 81, No. 10).
2. Renumbering and amendment of Section 1028 to Section 1020 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
3. Editorial correction of section heading (Register 2005, No. 33).

§ 1030. California Environmental Quality Act Compliance.

Wherever the department is the enforcement agency, evidence of compliance with The California Environmental Quality Act, Public Resources Code, Division 13, commencing with section 21000, shall be submitted with an application for a permit to construct or enlarge a park.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18300.1, 18406 and 18501, Health and Safety Code. Sections 21000, et seq., Public Resources Code.

HISTORY

1. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1032. Permit Applications—Required Approvals.

(a) All applications for permits to construct shall be submitted on the designated form provided by the enforcement agency.

(b) Applications for permits to construct or enlarge a park, shall be submitted with written evidence of compliance with the California Environmental Quality Act, along with written approval by all of the following:

(1) the local planning agency,

(2) the local health, fire, and public works departments,

(3) the local department responsible for flood control,

(4) the serving utilities, and

(5) any other public agencies having jurisdiction over the activity contained in the permit application.

(c) Park operator approval is required on all applications for a permit to construct, reconstruct or alter the park electrical, fuel gas, plumbing, or fire protection equipment or installations.

(d) Park operator approval is required with all applications for a permit to install an MH–unit, or to alter an MH–unit located in a park, if the alteration would affect the electrical, fuel gas or plumbing system of the park.

(e) Park operator approval is required on all applications for permits to construct, reconstruct, install or alter an accessory building or structure or building component to be located or proposed to be located within a park.

(f) Written evidence of applicable local approvals may be required for permanent buildings, when the installation may impact local services.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18406 and 18501, Health and Safety Code; Section 21082, Public Resources Code; and Title 14 CCR Section 15050.

HISTORY

1. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1034. Plans.

(a) Three (3) complete sets of plans and specifications shall be submitted for all work to be performed, if required by the enforcement agency.

(b) Plans and specifications submitted to the enforcement agency shall be of sufficient clarity to indicate the nature and extent of all work proposed and show in detail that the work will conform to the provisions of this chapter.

(c) When the design of the system requires an engineering analysis of structural parts, or methods of construction, the plans, specifications, and calculations shall be signed by an architect or engineer.

(d) Any deviation from the approved plans and specifications shall be approved by the designer, engineer, or architect and shall be submitted to the enforcement agency for approval.

(e) The enforcement agency may waive the requirement for plans and/or specifications when the proposed work is of a minor nature.

(f) Complete plans, specifications, calculations, and supporting data shall be submitted where the work proposed is not in conformity with or deviates from the provisions of this chapter.

(g) Electrical plans shall include a single line diagram of the electrical equipment to be installed, altered or changed. Complete load calculations of the electrical system shall be provided with plans.

(h) Complete engineering plans, specifications, calculations and supporting data, signed by an electrical engineer, shall be submitted when the park's electrical main service or any of the electrical wiring system exceeds the voltage of the secondary system.

(i) Any person applying for a permit to install additional electrical equipment in a park shall submit the following information with the application for a permit to construct:

(1) The size of the feeder circuit and overcurrent protection of that feeder circuit; and

(2) The number of lots and the load of any other electrical equipment supplied by the feeder circuit.

(j) An approved set of plans and specifications and a copy of the permit to construct shall be kept on the job site until the enforcement agency has made a final inspection.

(k) The provisions of this chapter are not intended to prevent the owner of an accessory building or structure or building component from reinstalling the accessory building or structure or building component when the unit is relocated. Structural plans, other than details of footings and foundations, are not required for reinstallation of an accessory building or structure or building component which complied with the requirements of the regulations in effect at the time of original installation, provided the accessory building or structure or building component:

(1) is structurally sound;

(2) does not present a hazard to the safety of the occupants and/or the public;

(3) meets the live load design requirements contained in article 9 of this chapter; and

(4) complies with all other installation requirements contained in this chapter.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18501, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1036. Expiration of Permits.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18509, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1038. Extension of Permit to Construct.

(a) An extension of a permit to construct may be granted provided work has commenced. No extension shall be granted where work has not been started prior to the expiration of the initial permit to construct. Each extension shall be limited to six (6) months. No permit to construct or reconstruct shall be extended more than two (2) years from the date of issuance of the initial permit to construct.

(b) Where a permit to construct has expired, all work shall cease until a valid permit to construct has been issued by the enforcement agency. A reapplication need not be accompanied by plans and specifications or installation instructions where:

(1) construction is to be completed in accordance with plans filed with the initial permit to construct; and

(2) the approved plans are made available to the enforcement agency during the construction; and

(3) plans were approved less than two (2) years prior to the request for extension.

(c) Fees paid for a permit to construct shall be forfeited to the enforcement agency if the applicant does not start construction within six (6) months of the date of issuance of the permit, or upon expiration of the permit where work has commenced and no extension has been granted pursuant to subsection (a).

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18509, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1040. Construction and Alteration Permit Fees.

NOTE: Authority cited: Sections 18300 and 18502.5, Health and Safety Code. Reference: Sections 18502.5 and 18503, Health and Safety Code.

HISTORY

1. Amendment filed 3–2–81; effective thirtieth day thereafter (Register 81, No. 10).
2. Renumbering and amendment of Section 1040 to Section 1022 filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1042. Swimming Pools.

Construction and barriers standards for public and private swimming pools constructed within a park are contained in the California Building Code.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1052 to new section 1042, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.

§ 1044. Construction.

(a) All construction shall be performed in accordance with approved plans and specifications and shall not be changed, modified or altered without the express prior approval, when possible, of the person or entity which provided the original approvals, and the enforcement agency.

(b) The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of the Health and Safety Code or any of the provisions of this chapter. Whenever an issued permit, or the work that it authorizes, violates provisions contained in this chapter, the Health and Safety Code, or any other provisions of applicable law, the permit, or that portion of the permit that authorizes the work in violation, shall be deemed null and void.

(c) The issuance of a permit based upon plans and specifications shall not prevent the enforcement agency from thereafter requiring the correction of errors in these plans and specifications, nor shall the issuance of a permit preclude the enforcement agency's power to prevent occupancy of a building, accessory building or structure, or building component, when it is found to be in violation of this chapter.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18500, 18501, 18552, 18610, 18620, 18630, 18670 and 18690, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1045. Excavation and Grading.

Except as provided in this chapter, the procedures relating to excavation, grading, and earthwork, including fills and embankments, are contained in the California Building Code.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1054 to new section 1045, including repealer and new section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.

§ 1046. Stop Order.

Whenever any work is performed in violation of the provisions of this chapter, the Health and Safety Code, or any other applicable provisions of law, the enforcement agency shall post an order to stop work on the site and provide a written notice to the person responsible for the work being performed. The work shall immediately stop until authorized to proceed by the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18404 and 18500, Health and Safety Code.

HISTORY

1. Amendment filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1048. Inspections.

(a) The person to whom a construction permit is issued, shall request inspection of all of the following:

(1) any underground or enclosed work prior to covering;

(2) permanent buildings; and

(3) accessory buildings or structures, or building components.

(b) The required inspections shall occur at the following stages of construction, when applicable:

(1) Form inspection: When trenching is completed and forms have been set for the foundation, including all plumbing, mechanical, and electrical installations which may be concealed beneath the foundation or slab.

(2) Frame inspection: When all structural framing is completed, including all electrical, mechanical, and plumbing installations which are to be enclosed within the walls.

(3) Lath and/or wallboard inspection: When all lathing and/or wallboard interior and exterior is completed, but before any plaster is applied or before wallboard joints and fasteners are taped and finished.

(4) Final inspection: When the permanent building, accessory building or structure, or building component, is completed.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, 18620, 18630, 18670 and 18690, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1050. Construction Permit Penalty.

Any person commencing construction without a valid permit shall discontinue the construction until a permit to construct is obtained, and shall pay double all fees prescribed for the permit.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18504, Health and Safety Code.

HISTORY

1. Amendment filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1052. Swimming Pools.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18610, Health and Safety Code.

HISTORY

1. Amendment filed 8-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Renumbering of former section 1052 to new section 1042 filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1054. Excavation and Grading.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18610, Health and Safety Code.

HISTORY

1. Amendment filed 8-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 5-26-87; operative 6-25-87 (Register 87, No. 23).
3. Renumbering of former section 1054 to new section 1045 filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.

Article 2. General Park Requirements

§ 1100. Application and Scope.

(a) The provisions of this article shall apply to the construction, use, maintenance, and occupancy of lots within parks in all parts of the state.

(b) Existing construction and installations made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18610 and 18612, Health and Safety Code.

HISTORY

1. Repealer and new section filed 8-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of article heading and section filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1102. Responsibility.

(a) The owner, operator, or the designated agent for the park shall be responsible for the safe operation and maintenance of all common areas, park-owned electrical, gas, and plumbing equipment and their installations, and all park-owned permanent buildings or structures, within the park.

(b) The owner of a unit, accessory building or structure, or building component shall be responsible for the use and maintenance of the unit, accessory building or structure, or building component and its utility connections up to the lot services in compliance with the requirements of this chapter.

(c) Any person obtaining a permit to construct shall be responsible for the construction or installation in accordance with the requirements of this chapter.

(d) The operator of a park shall not permit a unit, accessory building or structure, building component, or any park utility to be constructed, installed, used, or maintained in the park unless constructed, installed, used, and maintained in accordance with the requirements of this chapter.

(e) Procedures related to notice of violation and responsibilities to abate violations are set forth in article 10, commencing with section 1600 of this chapter.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18400, 18401, 18402, 18552 and 18603, Health and Safety Code.

HISTORY

1. Renumbering of former section 1604 to new section 1102, including amendment of section heading, section and NOTE, filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.

§ 1104. Lot Address Identification and Lot Line Marking.

(a) All lots shall be identified by letters, numbers, or street address numbers. The lot identification shall be in a conspicuous location facing the roadway. If the lot identification number is to be installed on a wall surface of the unit, the wall surface nearest the roadway shall be used.

(b) All lots shall be defined by permanent corner markers. Corner markers shall be visible at grade and shall be installed in a manner that does not create a hazard.

(c) Permanent corner markers shall be any of the following:

(1) Pressure-treated wood, or wood of natural resistance to decay and insects, as specified in the California Building Code, at least two (2) by two (2) inches in nominal dimension, driven into the ground to a depth of at least eighteen (18) inches, or six (6) inches if it is surrounded by a concrete pad at least four (4) inches in diameter and at least six (6) inches in depth.

(2) Metallic pipe or rods protected from corrosion by galvanizing, paint, or a protective coating which resists corrosion, and is driven into the ground to a depth of at least eighteen (18) inches or is driven into the ground to a depth of at least six (6) inches when it is surrounded by a concrete pad at least four (4) inches in diameter and at least six (6) inches in depth.

(3) Schedule 40 or better PVC, ABS, or CPVC pipe driven into the ground to a depth of at least eighteen (18) inches, or driven into the ground to a depth of at least six (6) inches, when it is surrounded by a concrete pad at least four (4) inches in diameter, and at least six (6) inches in depth.

(4) Saw cuts, blade marks, or scribe marks in a concrete or asphalt curb or roadway which are different in depth and nature than expansion joints.

(5) A nail with either a metal washer or surveyor's marker, which is either driven or embedded into concrete or asphalt, curbs or streets.

(d) To determine the edge of a lot bordering a roadway with curbing, the lot ends at the beginning of the curbing; curbing is part of the roadway.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18610, 18610.5 and 18612, Health and Safety Code.

HISTORY

1. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Repealer of subsection (d) and subsection relettering filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 1105. Lot Line Changes.

(a) Compliance with this section shall be required for any lot line change within a park. Compliance with subsections (b), (c) and (e) of this section shall not be required for any lot line creation; however, notwithstanding any other provision of this chapter, a lot line creation shall comply with the requirements of section 1020.6.

(b) The park owner or operator shall submit to the enforcement agency an application for a permit to construct, on a form designated by that agency, for a lot line change, along with all of the following:

(1) three (3) copies of a detailed plot plan with an identified date of preparation and measurements, indicating both the existing and proposed locations of the lot lines, which shall indicate all of the following:

(A) the locations of and distances between any units, accessory buildings or structures, or other built improvements on the affected lots (such as patios or parking areas), within ten (10) feet of the current and proposed lot lines;

(B) the distances from all existing and proposed lot lines of the lots on which those units, buildings or structures, or other improvements are located;

(C) the number of lots affected;

(D) the addresses or other identifying characteristics of those affected lots;

(E) proof of delivery of copies of the plot plan to all the registered owners of the units on the affected lots by registered or certified mail, sent by at least first class mail;

(F) the type(s) of marking(s) used to designate the existing and proposed lot line locations; and

(G) if the park is a common interest development, as defined in Civil Code section 1351, and lot line change involves encroaching into a common area, compliance with the approval provisions of Civil Code section 1363.07.

(2) The names and residence addresses of the registered owners of the units on the lots affected by the lot line change and the addresses or other identification of their units' lots if different than the residence address;

(3) a copy of the original written authorization, signed and dated by each of the registered owners of the units on the lots affected by the lot line change, that includes the following statement:

I, [*name of registered owner(s)*], have received a copy of the plot plan dated [*date of plot plan*] proposing to change a lot line affecting the lot where my unit is located and I/we approve of the proposed change in the location of the lot line(s) as detailed on the plot plan.

(4) A written statement signed and dated by the park operator or the operator's agent that the lot line change is substantially consistent in all material factors with both of the following:

(A) all health and safety conditions imposed by the local government as a condition of the initial construction of that space or the park; and

(B) prior applicable local and land use requirements for the park; and

(5) the applicable permit fee as specified in section 1020.7 of this chapter.

(c) When the department is the enforcement agency and the number of lots in the park is increased or decreased by the change in lot lines pursuant to this section, the applicant shall deliver a written notice to the local planning agency, by personal delivery or by registered or certified mail, of the proposed change in the number of lots prior to or concurrent with its submission of the application to the department and provide a statement attesting to that delivery and the proof of delivery by either a stamped receipt or the proof of service by registered or certified mail. The notice shall include one copy of all the information required by paragraphs (1) through (4) of subsection (b) and the office address of the department's area office performing the inspection.

(d) The enforcement agency shall perform an on–site inspection prior to approval of a lot line change or creation, in order to ensure consistency with this chapter and the application. Any existing lot line markings shall remain in place until after approval by the enforcement agency for the lot line change. At the time of inspection the applicant, or his or her designee, shall permanently mark the new lot line or lot lines pursuant to section 1104 of this chapter and eradicate any preexisting lot line markings. No approval shall be given for lot line changes without identification to the satisfaction of the enforcement agency of the existing lot line locations.

(e) Following approval of the lot line change by the enforcement agency, the enforcing official shall sign and date the submitted plot plan signifying its approval. Copies of that approved plot plan shall then be given by the applicant to the registered owners of the units on all the affected lots.

(f) No lot line shall be created, moved, shifted, or altered if the line creation or change will place a unit or accessory building or structure in violation of any provision of this chapter or any other applicable provision of law.

NOTE: Authority cited: Sections 18300, 18610 and 18612, Health and Safety Code. Reference: Sections 18501, 18610, 18610.5 and 18612, Health and Safety Code; and Sections 1351 and 1363.07, Civil Code.

HISTORY

1. New section filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
2. Editorial correction of subsection (c) and HISTORY 1 (Register 2005, No. 33).
3. Amendment of subsections (b)(1) and (b)(1)(E)–(F), new subsection (b)(1)(G) and amendment of NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1106. Roadways.

All park roadways shall have a clear and unobstructed access to a public thoroughfare, except that a roadway may have security gates, if such security gates are not in violation of local government requirements.

(a) In parks, or portions thereof, constructed prior to September 15, 1961:

(1) Each lot shall have access to a roadway of not less than fifteen (15) feet in unobstructed width.

(2) No vehicle parking shall be allowed on roadways less than twenty–two (22) feet in width. If vehicle parking is permitted on one side of the roadway, the roadway shall be a minimum of twenty–two (22) feet in width. If vehicle parking is permitted on both sides of the roadway, the roadway shall be not less than thirty (30) feet in width.

(b) In parks constructed on or after September 15, 1961:

(1) Each lot shall have access to a two–way roadway of not less than twenty–five (25) feet, or a one–lane, one–way roadway not less than fifteen (15) feet in unobstructed width.

(2) No vehicle parking shall be allowed on one–way, one–lane roadways less than twenty–two (22) feet in width. If vehicle parking is permitted on one side of a one–lane roadway, the roadway shall be a minimum of twenty–two (22) feet in width. If vehicle parking is permitted on both sides of a one–lane roadway, the roadway shall be at least thirty (30) feet in width.

(3) No vehicle parking shall be allowed on two–lane, two–way roadways less than thirty–two (32) feet in width. If vehicle parking is permitted on one side of a two–way roadway, the roadway shall be a minimum of thirty–two (32) feet in width. If vehicle parking is permitted on both sides of a two–way roadway, the roadway shall be at least forty (40) feet in width.

(c) Roadways designed for vehicle parking on one side shall have signs or markings prohibiting the parking of vehicles on the traffic flow side of the roadway clearly visible at any given point of the roadway where parking is prohibited.

(d) A two–way roadway divided into separate, adjacent, one–way traffic lanes by a curbed divider or similar obstacle, shall be not less than fifteen (15) feet in unobstructed width on each side of the divider.

(e) In parks constructed after September 23, 1974, which contain not more than three (3) lots, each lot shall abut a roadway that is not less than twenty (20) feet in unobstructed width.

(f) Paving is not required for roadways or driveways unless it is necessary for compliance with section 1116 of this chapter.

(g) At the request of the park owner/operator, the local fire protection agency may designate the sides or portions of roadways in a park as fire lanes provided those designations do not conflict with the roadway widths of this section.

(h) If a park owner or operator proposes reducing the width, or changing the layout or configuration, of the park roadways from the way they were previously approved or constructed, local fire protection agency acknowledgment of the change shall be submitted to the enforcement agency.

NOTE: Authority cited: Sections 18300, 18610, 18612 and 18691, Health and Safety Code. Reference: Sections 18610, 18612 and 18691, Health and Safety Code.

HISTORY

1. Amendment of section heading and NOTE filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
3. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
4. Editorial correction of HISTORY 3 (Register 2005, No. 33).
5. Amendment of section and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1108. Park Lighting.

In every park, lighting shall be installed which is capable of providing:

(a) An average of five (5) horizontal foot candles of light at the floor level at entrances to toilet and shower buildings, laundry buildings, and recreation buildings when the buildings are in use during the hours of darkness.

(b) An average of ten (10) horizontal foot candles of light at the floor level within toilet and shower buildings, laundry buildings, and recreation buildings when the buildings are in use during the hours of darkness.

(c) An average of two–tenths (2/10) horizontal foot–candles of light the full length of all roadways and walkways within a park during the hours of darkness.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18602, 18620 and 18640, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1110. Occupied Area.

(a) The occupied area of a lot, consisting of the unit, and all accessory buildings and structures including, but not limited to awnings, stairways, ramps and storage cabinets, shall not exceed seventy–five (75) percent of the lot area.

(b) For purposes of this chapter, patios and paved or concrete areas on grade, and the area of accessory buildings or structures located under another accessory structure, such as a storage cabinet or porch under an awning or carport, are not included in the measurement of the occupied area. The occupied area shall be determined as if viewed from overhead looking directly down on the lot.

NOTE: Authority cited: Sections 18300 and 18691, Health and Safety Code. Reference: Sections 18610 and 18691, Health and Safety Code.

HISTORY

1. Repealer and new section filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
3. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
4. Editorial correction of HISTORY 3 (Register 2005, No. 33).
5. Amendment of subsection (b) filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1112. Required Toilet and Shower Facilities.

(a) Toilets, showers, and lavatories shall be provided as follows:

(1)(A) In parks constructed before July 7, 2004, containing dependent lots or allowing dependent units the following minimum ratio of toilets, showers, and lavatories, for each gender shall be maintained.

Lots	*Toilets*	*Showers*	*Lavatories*
1–25	1	1	1
26–70	2	2	2

One additional toilet shall be provided for each gender, for each one hundred (100) additional lots, or fractional part thereof in excess of seventy (70) lots.

(B) In parks constructed on or after July 7, 2004, containing dependent lots or allowing dependent units, at least one toilet, shower, and lavatory for each gender for each twenty–five (25) lots shall be maintained.

(2) Independent, individually enclosed, lockable facilities for a single toilet and lavatory or shower, may be designated as unisex on an equal one (1) to one (1) ratio to gender designated facilities, as described in this section, provided the number of gender designated facilities remains equal.

(3) Sufficient toilets shall be reserved for the exclusive use of the occupants of the lots in the park.

(4) Parks constructed and operated exclusively for independent units need not provide public toilets, showers, or lavatories.

(5) Toilets, lavatories, and showers shall be within five hundred (500) feet of all dependent unit lots or lots not provided with a lot water service outlet and a three (3) inch lot drain inlet.

(6) Toilet, lavatory, and shower facilities shall be separated and distinctly marked for each gender or unisex.

(7) Showers shall be provided with hot and cold running water. Each shower shall be contained within a separate compartment. Each shower compartment shall be provided with a dressing area of not less than six (6) square feet of floor area that shall have hooks for hanging clothing and a bench or chair for use by the occupant.

(8) Toilets shall be installed in separate compartments.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18620, 18630 and 18640, Health and Safety Code.

HISTORY

1. Renumbering of former section 1674 to new section 1112, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 1114. Animals.

(a) Dogs and other domestic animals, and cats (domestic or feral) shall not be permitted to roam at large (free) in any park.

(b) Animal feces shall not be permitted to accumulate on any lot or common area in a park to the extent that they create a nuisance.

NOTE: Authority cited: Section 18300 and 18601 Health and Safety Code. Reference: Section 18601, Health and Safety Code.

HISTORY

1. Renumbering of former section 1608 to new section 1114, including amendment of section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1116. Lot and Park Area Grading.

(a) The park area and park roadways shall be so graded that there will be no depressions in which surface water will accumulate and remain for a period of time that would constitute a health and safety violation as determined by the enforcement agency. The ground shall be sloped to provide storm drainage run–off by means of surface or subsurface drainage facility.

(b) Each lot shall be graded to prevent the migration of water to the underfloor area of a unit, or accessory building or structure, or building component. Other methods to prevent the migration of water beneath a unit, accessory building or structure, or building component may be ap-

proved by the department as alternates, in accordance with section 1016 of this chapter.

(c) To provide for unanticipated water entering the area beneath a unit, accessory building or structure, or building component, that area shall be sloped to provide for drainage to an approved outside drainage way. Other positive passive drainage methods may be approved by the department as an alternate, in accordance with section 1016 of this chapter.

(d) Drainage from a lot, site, roadway or park area shall be directed to a surface or subsurface drainage way and shall not drain onto an adjacent lot, or site.

(e) All vegetation shall be cleared from the area of the lot beneath a unit or accessory building or structure.

(f) Fills necessary to meet the grading requirements of this subsection shall comply with section 1045 of this chapter.

(g) Minor load bearing grading and area fills that are made with a compacted class 2 aggregate and that do not exceed six (6) inches in depth, do not require additional approvals.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18254 and 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1610 to new section 1116, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
3. Amendment of subsection (g) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
4. Editorial correction of HISTORY 3 (Register 2005, No. 33).

§ 1118. Lot Occupancy.

(a) A lot shall accommodate only one (1) unit. However, when used as a frequent means of transportation, a self–propelled recreational vehicle or truck mounted camper may be parked beside the occupied unit. That vehicle shall not be occupied or connected to the lot's utility facilities or interconnected with the occupied unit.

(b) In no case shall a truck mounted camper be occupied, if removed from the truck.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18605 and 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1614 to new section 1118, including amendment of section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1120. Rubbish and Accumulation of Waste Material.

(a) Occupants shall keep the lot area and the area under, around, or on their unit and accessory buildings or structures free from an accumulation of refuse, rubbish, paper, leaves, brush or other combustible material.

(b) Waste paper, hay, grass, straw, weeds, litter, or combustible flammable waste, refuse, or rubbish of any kind shall not be permitted, by the park owner or operator, to remain upon any roof or on any vacant lot, open space, or common area.

(c) The park area shall be kept clean and free from the accumulation of refuse, garbage, rubbish, excessive dust, or debris.

(d) The park operator shall ensure that a collection system is provided and maintained, with covered containers, for the safe disposal of rubbish.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18610 and 18691, Health and Safety Code.

HISTORY

1. Renumbering of former sections 1690 and 1696 to new section 1120, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1122. Emergency Information.

The requirements of this section shall be printed and posted in a conspicuous place on the premises and shall contain the following information:

(a) List the following telephone numbers:

(1) Fire Department

(2) Police Department or Sheriff's Office.

(3) Park Office.

(4) The responsible person for operation and maintenance.

(5) Enforcement agency.

(b) List the following locations:

(1) Nearest fire alarm box, when available.

(2) Park location (street or highway numbers).

(3) Nearest public telephone.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1686 to new section 1122, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 3. Electrical Requirements

§ 1130. Application and Scope.

(a) The requirements of this article shall apply to all parks, accessory buildings or structures, and units (except within permanent buildings) in all parts of the state, to the construction, installation, alteration, repair, use, and maintenance of all electrical wiring and equipment for supplying electrical energy to all units.

(b) Existing electrical construction, connections, and installations made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Sections 18300, 18610 and 18670, Health and Safety Code. Reference: Sections 18610 and 18670, Health and Safety Code.

HISTORY

1. Repealer and new section filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1132. Permanent Building Electrical Regulations.

Requirements for electrical equipment and installations within permanent buildings in parks are found in the California Electrical Code.

NOTE: Authority cited: Sections 18300 and 18670, Health and Safety Code. Reference: Sections 18300 and 18670, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1134. Electrical Requirements.

(a) Except as otherwise permitted or required by this article, all electrical equipment and installations outside of permanent buildings in parks shall comply with the requirements for installations of 600 volts or less found in the California Electrical Code.

(b) All park–owned overhead electrical equipment of park electrical systems shall also comply with the applicable requirements of the current California Public Utilities Commission Rules for Overhead Electric Line Construction, General Order No. 95. If there is any conflict between the provisions contained in the California Electrical Code and General Order 95, the provisions of General Order 95 shall prevail.

(c) All park–owned underground electric equipment of park electrical systems shall also comply with the applicable requirements of the current California Public Utilities Commission, Rules for Construction of Underground Electric Supply and Communication Systems, General Order No. 128. If there is any conflict between the provisions contained in the California Electrical Code and General Order 128, the provisions of General Order 128 shall prevail.

(d) All additions or alterations to existing or new parks shall have plans submitted in compliance with section 1034 of this chapter.

(e) Except as otherwise permitted or required, all high voltage (exceeding 600 volts) electrical installations outside of permanent buildings within parks, shall comply with the applicable requirements of Title 8,

California Code of Regulations, Chapter 4, Subchapter 5, Group 2, High Voltage Electrical Safety Orders.

(f) If there is any conflict between the provisions of this chapter, General Order 95, General Order 128, or the California Electrical Code, the provisions of this chapter shall prevail.

NOTE: General Order Numbers 95 and 128 may be obtained from the California Public Utilities Commission (CPUC) Technical Library, 505 Van Ness Ave., San Francisco, CA 94102 or by calling the CPUC at (415) 703–1713. They may also be viewed on line at www.cpuc.ca.gov.

NOTE: Authority cited: Sections 18300, 18610 and 18670, Health and Safety Code. Reference: Sections 18610 and 18670, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of subsection (a) filed 5–26–87; operative 6–25–87 (Register 87, No. 23).
3. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
4. Amendment of subsections (b)–(c) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
5. Editorial correction of HISTORY 4 (Register 2005, No. 33).
6. Amendment of subsections (b), (c) and (f) and amendment of NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1136. Conductors and Equipment.

(a) 600 volts or less. For purposes of this chapter, all electrical conductors and equipment rated at 600 volts or less, installed outside of permanent buildings in park electrical wiring systems constructed, or approved for construction, shall be listed and labeled as approved for their intended use.

(b) Greater than 600 volts. Conductors and equipment installed in systems operated at more than 600 volts shall comply with the applicable provisions contained in the California Electrical Code, Article 490, and the High Voltage Safety Orders contained in Title 8, California Code of Regulations, Chapter 4, Subchapter 5, Group 2.

(c) A grounded neutral conductor may be a bare conductor when properly isolated from phase conductors. A bare neutral conductor, or a bare concentric stranded conductor of a cable used as a grounded neutral conductor, shall be copper when installed underground. These types of systems shall be solidly grounded.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Register 85, No. 36.
2. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1138. Energizing.

Lot electrical equipment and installations shall not be energized until inspected and approved by the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1140. Distribution System.

(a) The park electrical wiring system shall be designed to supply adequate electrical energy to all lots and all other connected loads, as determined by this article.

(b) Electrical energy supplied to a lot shall be nominal 120/240 volts, single phase.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1142. Design Requirements.

NOTE: Authority cited: Sections 18300 and 18670, Health and Safety Code. Reference: Sections 18251 and 18670, Health and Safety Code.

HISTORY

1. Amendment of subsection (b)(6) and new subsection (d) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1144. Electric Heating.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1146. Voltage Drop.

The voltage drop shall not exceed five (5) percent on the park electrical wiring system from the park service to the most remote outlet on the system, except that taps to compensate for below normal full capacity voltage may be used on the primary side of secondary distribution transformers to correct for voltage drop on the primary feeders. The voltage of secondary systems shall not exceed a nominal 240 volts.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1148. Overcurrent Protection.

(a) Conductors shall be protected by overcurrent protective devices. A fuse or circuit breaker rating shall not be greater than the allowable ampacity of the conductors to be protected as specified in Tables 310–16 through 310–19 found in the California Electrical Code, except as provided in Articles 210, 240, and 430.

(b) All electrical equipment and devices, including service equipment, transformers and receptacles, shall be protected by overcurrent protective devices rated at not more than the rating of the equipment or device, except as provided in Articles 210, 240, 430, and 450 of the California Electrical Code.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1150. Park Electrical Disconnecting Means.

(a) Each service equipment enclosure for the park shall be provided with a single main disconnect switch or circuit breaker lockable in the open position for disconnecting the electrical wiring system or systems of the park.

(b) A disconnecting means shall be provided for disconnecting each distribution transformer. When the disconnecting means is not installed immediately adjacent to the distribution transformer, it shall be identified as to its usage and shall be arranged to be locked in the open position.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1151. Lot Electrical Disconnecting Means.

A single disconnecting switch or circuit breaker shall be provided in the lot service equipment for disconnecting the power supply to the unit. The disconnecting switch, circuit breaker or its individual enclosure shall be clearly marked to identify the lot serviced.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1152. Ground–Fault Protection.

Ground–fault protection of park service equipment shall be provided for solidly grounded wye electrical services of more than 150 volts to ground, but not exceeding 600 volts phase–to–phase for each service disconnecting means rated at 1,000 amperes or more. Each service disconnecting means rated 1000–amperes or more shall be performance tested when first installed, as required by the California Electrical Code, section 230–95. The test shall be conducted in accordance with approved instructions, which shall be provided with the equipment. A written record of this test shall be made and shall be available to the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of section and HISTORY 2 (Register 2005, No. 33).

§ 1153. Equipment Grounding.

Exposed noncurrent–carrying metal parts of fixed electrical equipment shall be grounded as required by the California Electrical Code, Article 250.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1154. Primary System Grounding — 600 Volts or Less.

(a) When the park electrical service is supplied by a grounded system operated at 600 volts or less, an equipment grounding conductor shall be run with the feeders of the park primary electrical system to all equipment supplied by the primary electrical system.

(b) Park primary electrical systems within the park operated at 600 volts or less supplied by an ungrounded system shall not be grounded.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1156. Primary System Grounding — Over 600 Volts.

(a) Park primary electrical systems within the park operated at more than 600 volts supplied by a grounded system shall be grounded at the park service.

(b) Park primary electrical systems within the park operated at more than 600 volts supplied by an ungrounded system shall not be grounded.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1158. Secondary Systems — Lot Service Equipment.

The neutral conductor of all secondary systems supplying lot service equipment shall be grounded at both the secondary system source and the lot service equipment.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1160. Secondary Systems — Other than Lot Service Equipment.

The neutral conductor of all secondary systems supplying equipment other than lot service equipment shall be grounded as required by the California Electrical Code, article 250.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1162. Grounding Connections.

System grounding conductors and equipment grounding conductors shall be connected as required by the California Electrical Code, article 250. The connection of a grounding conductor to a grounding electrode shall be exposed and readily accessible.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1163. Grounding of Units.

All exposed, noncurrent–carrying metal parts of a unit, when connected to the lot service equipment, shall be grounded by means of a grounding conductor run with the circuit conductors or in a listed power supply cord provided with an approved polarized multi–prong plug. One prong of the plug shall be for the sole purpose of connecting that grounding conductor, by means of a listed and approved grounding receptacle, to the grounded terminal at the lot service. The conductor shall be insulated and identified by a green color.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550 and 18670, Health and Safety Code.

HISTORY

1. Renumbering of former section 1648 to new section 1163, including amendment of section heading and section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1164. Feeder Assembly.

The neutral conductor and the equipment grounding conductor of the feeder assembly supplying service equipment, shall be connected to the grounding electrode at each lot service enclosure.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1166. Grounding Conductors.

Only copper grounding conductors shall be used to connect electrical systems to a grounding electrode. Grounding conductors shall be protected from physical damage by cabinet enclosures, raceways, or cable armor.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1170. Protection of Outdoor Equipment.

(a) All electrical equipment, including switches, circuit breakers, receptacles, lighting fixtures, control equipment, and metering devices located in either damp or wet locations or outside of a unit, accessory building or structure, or a building component designed as a weatherproof structure, shall be constructed of, or installed in, equipment approved for damp or wet locations.

(b) Meter sockets, without meters installed, shall be blanked off with an approved blanking plate before the service is energized.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1172. High–Voltage Conductors.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1176. Aluminum Conductors.

(a) Connections of aluminum conductors shall be made only inside boxes or equipment enclosures which are designed and installed to prevent the entry or accumulation of moisture within the enclosure.

(b) Only connectors which are listed for use with aluminum conductors shall be used to connect aluminum conductors. If more than one conductor is connected to a connector, the connector shall be provided with a terminal fitting for each conductor.

(c) Prior to inserting an aluminum conductor into the connector, the conductor from which the insulation has been removed shall be wire–brushed and sealed with an approved oxide–inhibiting joint compound.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1178. Mechanical Protection.

Where subject to physical damage from vehicular traffic or other causes, the lot service equipment shall be protected by posts, fencing or other barriers approved by the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1180. Lot Service Equipment.

(a) Equipment installed to supply electrical energy to an MH–unit shall be rated at not less than 100–amperes and shall be listed and labeled "Service Equipment", "Suitable for Use as Service Equipment" or "Suitable for Use as Service Equipment for Manufactured Homes or Mobilehomes". When installed in locations where the demand for a single lot exceeds 100–amperes, the MH–unit lot service equipment shall be capable of supplying the required demand. MH–unit lot service equipment shall be capable of supplying not less than the required demand to an MH–unit by the installation of a circuit breaker or fused disconnecting switch for connecting the MH–unit feeder assembly by a permanent wiring method. The rating of the overcurrent protection in the MH–unit lot service equipment shall not exceed the rating of the feeder assembly connected by a permanent wiring method. MH–unit lot service equipment may contain any or all of the approved receptacles conforming with section 1186 of this chapter.

(b) MH–unit lot service equipment may also contain a means for supplying accessory buildings or structures or building components or other electrical equipment located on the lot, provided the MH–unit lot service equipment is designed and listed for such application.

(c) Only one power supply connection shall be made to a unit.

(d) Lot service equipment may also contain additional receptacles for supplying portable electrical equipment, provided that such receptacles are listed grounding–type receptacles. All 120–volt, single–phase, 15– and 20–ampere receptacle outlets in lot service equipment shall be protected by ground–fault circuit protection. The requirement for ground–fault circuit protection shall not apply to equipment or installations constructed, installed, or approved for construction or installation prior to September 1, 1975.

(e) When an electrical meter is installed as an integral component of the lot service equipment, it shall be of a class or rating that will accurately measure all loads up to the rated ampacity of the lot service equipment.

(f) When the electrical meter–base equipment is to be attached to the MH–unit at the time of installation, an alteration permit for the unit is required pursuant to Section 18029 of the Health and Safety Code.

(g) Parks constructed after January 1, 1997, shall have individual electric meters for each lot and shall be served by electrical distribution facilities owned, operated, and maintained by the electrical corporation as defined in section 218 of the Public Utilities Code providing electric service in the area, in accordance with Public Utilities Code section 2791.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Sections 18550, 18605 and 18670, Health and Safety Code; and Section 2791, Public Utilities Code.

HISTORY

1. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1182. Installation of Lot Service Equipment.

(a) Approved lot service equipment supplied by underground feeders may be of the self–supporting type and shall be stabilized by concrete not less than three and one–half (3 1/2) inches thick and surrounding the equipment base by not less than six (6) inches beyond the equipment base in all directions.

(b) Approved lot service equipment supplied by underground feeders requiring installation on a mounting post shall be securely fastened to a nominal four (4) inches by four (4) inches redwood or pressure treated post or equivalent. The post shall be installed not less than twenty–four (24) inches in the earth and stabilized by a concrete pad. The concrete pad shall be not less than three and one–half (3 1/2) inches thick, surrounding the post base by not less than six (6) inches beyond the post base in all directions. The equipment shall be mounted with the bottom of the equipment not less than twelve (12) inches above the stabilizing concrete pad.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1183. Access to Electrical Equipment.

All park or lot service equipment shall be accessible by an unobstructed entrance or passageway not less than twenty–four (24) inches in width and seventy–eight (78) inches high and shall have a working space not less than thirty (30) inches wide and thirty–six (36) inches deep in front of and centered on the service equipment. The lot service equipment shall be located and maintained not less than twelve (12) inches nor more than seventy–eight (78) inches above the stabilizing pad.

EXCEPTION: parks constructed prior to July 1, 1979, shall have a working space not less than thirty (30) inches wide and thirty (30) inches deep in front of and centered on the service equipment.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550 and 18670, Health and Safety Code.

HISTORY

1. Renumbering of former section 1646 to new section 1183, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 1184. Lot Location.

Equipment to supply electrical power to a unit shall be located within four (4) feet of the unit or the proposed location of the unit.

NOTE: Authority cited: Sections 18300 and 18670, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1185. Electrical Appliances, Equipment, and Air Conditioning.

(a) When electrical equipment or fixed appliances are installed to serve a unit, an accessory building or structure, or building component, the installation shall be supplied by one of the following methods:

(1) By an individual branch circuit from the unit terminating in a single outlet or junction box, provided a permit is obtained from the department for the alteration to the unit. An alteration permit shall be obtained from the department pursuant to the requirements of Title 25, California Code of Regulations, Chapter 3, section 4042.

(2) By means of a permanent wiring method to the lot electrical service equipment, provided the lot service equipment is designed and listed for the additional load.

(b) When central air–conditioning equipment is proposed to be installed on a unit which was not originally designed for central air conditioning, an alteration permit shall be obtained from the department pursuant to the requirements of Title 25, California Code of Regulations, Chapter 3, section 4042. A permit to alter the unit is required, provided the unit bears or is required to bear the department's insignia of approval, or a HUD label of approval.

(c) If the park electrical system or the feeder supplying the lot electrical service equipment does not have the ampacity to supply the air–conditioning equipment in addition to its connected load, a permit to construct, as required in section 1018 of this chapter, shall be obtained for alteration of the required service supply and equipment.

(d) All electrical appliances and equipment not located within enclosed weatherproof structures must be approved for use in wet locations.

NOTE: Authority cited: Sections 18300 and 18670, Health and Safety Code. Reference: Sections 18550 and 18670, Health and Safety Code.

HISTORY

1. Renumbering of former section 1650 to new section 1185, including amendment of section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (b) and new subsection (d) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of subsection (a)(1) and HISTORY 2 (Register 2005, No. 33).

§ 1186. Lot Receptacles.

(a) A receptacle used to supply electrical energy to a unit shall conform with the American National Standards Institute–National Electrical Manufacturers Association (ANSI–NEMA) Standard, WD–6, 1997 for one of the following configurations:

(1) 125/250 volts, 50–amperes, 3 pole, 4 wire, grounding type for 120/240 volt systems.

(2) 125 volts, 30–amperes, 2 pole, 3 wire, grounding type for 120 volt systems.

(3) 125 volts, 20–amperes, 2 pole, 3 wire, grounding type for supplying units having only one 15 or 20–ampere branch circuit.

(b) ANSI–NEMA Standards may be obtained on–line from www.nema.org or by calling (703) 841–3200 or by writing to NEMA, Communications Department, 1300 North 17th Street, Rosslyn, Virginia, 22209.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1188. Existing Electrical Installations.

(a) Lot service equipment shall have the capacity to supply the unit, appliance, accessory building or structure, and building component located on the lot. The park operator may prohibit the installation of a unit, appliance, accessory building or structure, or building component that exceeds the rated capacity of the lot electrical service, unless the load in the unit, appliance, accessory building or structure, or building component is reduced. If the unit or electrical appliance is allowed to be installed by the park and the connected load on the lot exceeds the rated capacity of the lot electrical service equipment, the lot electrical service equipment and feeders shall be replaced with equipment and conductors properly rated to supply the unit, appliance, or accessory building or structure. Notwithstanding the provisions of this subsection, park approval is required when an alteration or addition to the existing electrical system of the unit, appliance, accessory building or structure, or building component will exceed the rated capacity of the lot service equipment.

(b) The enforcement agency may order unsafe installations of existing electrical systems or portions thereof to be reconstructed or altered, if necessary for the protection of life and property.

(c) The use of electrical equipment and installations in existence prior to the effective date of applicable amendments to this chapter may be continued, provided such equipment and installations are maintained in safe operating condition and the calculated connected loads do not exceed the rated ampacity of such equipment and installations.

(d) Lot electrical service equipment may continue supplying accessory buildings or structures or building components or other electrical equipment located outside the unit, provided the lot electrical service has the capacity to serve them and the equipment is maintained in a safe operating condition.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18605, 18610 and 18670, Health and Safety Code.

HISTORY

1. Renumbering of former section 1644 to new section 1188, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1190. Authority to Order Disconnect–Electrical.

(a) The enforcement agency is authorized to require any electrical installation or equipment found to be defective, and in such condition as to endanger life or property, to be disconnected.

(b) Installations which have been disconnected shall not be re–energized until a permit has been obtained to repair the electrical installation or equipment, and the work has been inspected and approved by the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550 and 18670, Health and Safety Code.

HISTORY

1. Renumbering of former section 1654 to new section 1190, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 4. Fuel Gas and Oil Requirements

§ 1200. Application and Scope.

(a) The requirements of this article shall apply to the construction, installation, arrangement, alteration, use, maintenance, and repair of fuel gas and oil equipment and installations for supplying fuel gas and oil to parks, units, and accessory building or structures in all parts of the state.

(b) Existing construction, connections, and installations of fuel gas or oil made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Sections 18300, 18610 and 18690, Health and Safety Code. Reference: Sections 18610 and 18690, Health and Safety Code.

HISTORY

1. Repealer and new section filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of article heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1202. Application and Scope.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18300, 18610, 18690, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1204. Permit Required.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18500, 18501, 18502 and 18690, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1206. Federal Regulations.

A park gas piping distribution system is subject to the Pipeline Safety Law of 1994 (49 USC Section 1971) and regulations adopted by the Office of Pipeline Safety Operations. The applicable regulations are contained in Title 49 of the Code of Federal Regulations, Parts 191 and 192.

(a) The operator of a park gas piping system is responsible for complying with the federal regulations in addition to this chapter. A permit is not required from the enforcement agency for the installation of cathodic protection if the existing gas piping system is not otherwise altered.

This chapter does not prohibit the installation of cathodic protection systems and requirements for corrosion control of buried or submerged metallic gas piping systems required by the federal regulations in existing systems. If there is any conflict between the provisions of this chapter and the federal regulations, the provisions of the federal regulations shall prevail.

(b) Plans and specifications for the installation of a metallic gas piping system shall specify methods of protecting buried or submerged pipe from corrosion, including cathodic protection, unless it can be demonstrated that a corrosive environment does not exist in the area of installation. The design and installation of a cathodic protection system shall be carried out by, or under the direction of, a person qualified by experience and training in pipeline corrosion methods so that the cathodic protection system meets the requirements of Title 49 of the Code of Federal Regulations, Parts 191 and 192.

(1) All buried or submerged metallic gas piping shall be protected from corrosion by approved coatings or wrapping materials. All gas piping protective coatings shall be approved types, machine applied, and conform to recognized standards. Field wrapping shall provide equivalent protection and is restricted to those short sections and fittings necessarily stripped for threading or welding. Risers shall be coated or wrapped to a point at least six (6) inches above grade.

(2) All metallic gas piping systems shall be installed in accordance with plans and specifications approved by the enforcement agency, including provisions for cathodic protection. When the cathodic protection system is designed to protect only the gas piping system, the gas piping system shall be electrically isolated from all other underground metallic systems or installations. When a cathodic protection system is designed to provide all underground metallic systems and installations with protection against corrosion, all such systems and installations shall be electrically bonded together and protected as a whole.

(3) When non–metallic gas piping is installed underground, a locating tape or No. 18 AWG or larger copper tracer wire shall be installed with and attached to the underground piping for the purpose of locating the piping system. The locating tape or tracer wire shall terminate above grade at an accessible location at one or more ends of the piping system. Every portion of a plastic gas piping system consisting of metallic risers or fittings shall be cathodically protected against corrosion.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1208. Basic Fuel Gas Regulations.

(a) Except as otherwise permitted or required by this article, all fuel gas equipment and installations for supplying fuel gas to units or accessory buildings or structures, and fuel gas piping systems outside of permanent buildings in parks, shall comply with the requirements found in the California Plumbing Code, Chapter 12.

(b) The requirements for fuel gas equipment and installations within permanent buildings in parks are located in the California Mechanical Code and the California Plumbing Code unless otherwise provided by this chapter. However, in a city, county, or city and county, which has assumed responsibility for enforcement of the Mobilehome Parks Act and Special Occupancy Parks Act, pursuant to sections 18300 and 18865 of the Health and Safety Code, and has adopted and is enforcing a plumbing and mechanical code equal to or greater than the requirements of the California Plumbing Code and the California Mechanical Code, may enforce its code as it pertains to permanent buildings.

NOTE: Authority cited: Sections 18300 and 18690, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36)
2. Amendment filed 5–26–87; operative 6–25–87 (Register 87, No. 23).
3. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1210. Liquefied Petroleum Gas (LPG).

All LPG equipment and installations exceeding one hundred twenty–five (125) US gallons shall comply with the applicable provisions of the Unfired Pressure Vessel Safety Orders, California Code of Regulations, Title 8, Chapter 4, Subchapter 1, unless otherwise provided by this chapter.

NOTE: Authority cited: Sections 18300 and 18690, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1211. LPG Tanks.

(a) LPG tank installations in parks must conform to the provisions related to LPG tanks contained in Article 82 of the California Fire Code, which is hereby incorporated by reference.

(b) MH–Units designed and constructed with securely mounted tanks, may be served by either the lot or mounted tanks, but not by both at the same time.

(c) A permit from the enforcement agency is required to install fuel tanks exceeding sixty (60) U. S. gallons within a park.

(d) LPG tanks shall be designed and constructed in accordance with nationally recognized standards for unfired pressure vessels.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Renumbering of former section 1664 to new section 1211, including amendment of section heading and section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1212. Prohibited Location of Tanks.

(a) No LPG tank greater than five (5) U.S. gallons shall be stored or located in any of the following locations:

(1) within five (5) feet of any source of ignition (lot electrical service is not a source of ignition);

(2) within five (5) feet of any mechanical ventilation air intake;

(3) under any unit or habitable accessory building; or

(4) within any structure or area where three (3) or more sides are more than fifty (50) percent closed.

(b) No LPG tank shall be filled within ten (10) feet of a source of ignition, openings into direct–vent (sealed combustions system) appliances, or any mechanical ventilation air intake.

(c) An LPG system within a motor–driven vehicle or recreational vehicle is exempt from the requirements of subsections (a) and (b).

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Renumbering of former section 1670 to new section 1212, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 1214. Material.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1216. Installation.

(a) All gas piping installed below ground shall have a minimum earth cover of eighteen (18) inches.

(b) Gas piping shall not be installed underground beneath buildings, concrete slabs or other paved areas of a lot directly abutting the unit, or that portion of the lot reserved for the location of units, or accessory buildings or structures, or building components unless installed in a gas-tight conduit.

(1) The conduit shall be pipe approved for installation underground beneath buildings and not less than schedule 40 pipe. The interior diameter of the conduit shall be not less than one–half (1/2) inch larger than the outside diameter of the gas piping.

(2) The conduit shall extend to a point not less than twelve (12) inches beyond any area where it is required to be installed, any potential source of ignition or area of confinement, or the outside wall of a building, and the outer ends of the conduit shall not be sealed. Where one end of the conduit terminates within a building, it shall be readily accessible and the space between the conduit and the gas piping shall be sealed to prevent leakage of gas into the building.

(c) A carport or awning roof may extend over an individual lot gas piping lateral and outlet riser, provided the completed installation complies with all other requirements of this chapter and the covered area is ventilated to prevent the accumulation of gas.

(d) The use of gas piping in parks constructed prior to June 25, 1976, that was originally installed under the area to be occupied by the unit or accessory building or structure, may be continued provided the piping is maintained in a safe operating condition.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (a) filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1218. Park Gas System Shutoff Valve.

A readily accessible and identified shutoff valve controlling the flow of gas to the entire park–owned gas piping system shall be installed at the point of connection to the service piping or supply connection.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1220. Lot Gas Shutoff Valve.

(a) Each lot shall have a gas shutoff valve, listed for its intended use by a department–approved listing agency, installed in a readily accessible location upstream of the lot gas outlet.

(b) The valve shall be located on the lot gas riser outlet at a height of not less than six (6) inches above grade.

(c) The lot gas shutoff valve shall not be located under or within any unit, or accessory building or structure.

EXCEPTION: gas shut–off valves may be located under an awning or carport that is not enclosed complying with Article 9 of this chapter.

(d) Whenever the lot gas riser outlet is not in use, it shall be closed with an approved cap or plug to prevent accidental discharge of gas.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1222. Lot Gas Outlet.

(a) The gas riser outlet shall terminate within four (4) feet of the unit, or proposed location of the unit on the lot.

(b) Each unit connected to the gas riser outlet shall be connected by a listed flexible gas connector in accordance with section 1354 of this chapter.

NOTE: Authority cited: Sections 18300 and 18690, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1224. Mobilehome Gas Connector.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18690, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Editorial correction of section heading (Register 2005, No. 33).

§ 1226. Gas Meters.

(a) When gas meters are installed, they shall not depend on the gas riser outlet for support. Gas meters shall be adequately supported by a post and bracket or by other means approved by the enforcement agency.

(b) Meters shall not be installed beneath units, in unventilated or inaccessible locations, or closer than three (3) feet from sources of ignition. The unit electrical service equipment shall not be considered a source of ignition when not enclosed in the same compartment with a gas meter.

(c) All gas meter installations shall be provided with a shutoff valve or cock located adjacent to and on the inlet side of the meter. In the case of a single meter installation utilizing a LPG tank, the tank service valve may be used in lieu of the shutoff valve or cock.

(d) Each meter installed shall be in a readily accessible location and shall be provided with unions or other fittings so as to be easily removed and replaced while maintaining an upright position.

(e) Parks constructed after January 1, 1997, shall have individual gas meters for each lot and shall be served by gas distribution facilities owned, operated, and maintained by the gas corporation, as defined in section 222 of the Public Utilities Code, providing gas service in the area.

NOTE: Authority cited: Sections 18300 and 18690, Health and Safety Code. Reference: Section 18690, Health and Safety Code; and Section 2791, Public Utilities Code.

HISTORY

1. Amendment of subsection (c) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1228. Mechanical Protection.

Where subject to physical damage from vehicular traffic or other causes, all gas riser outlets, regulators, meters, valves, tanks or other exposed equipment shall be protected by posts, fencing, or other barriers approved by the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1229. Regulator and Relief Vents.

Atmospherically controlled regulators shall be installed in such a manner that moisture cannot enter the regulator vent and accumulate above the diaphragm. Where the regulator vent may be obstructed because of snow or icing conditions, a shield, hood, or other device approved by the enforcement agency shall be provided to guard against closing the vent opening.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1230. Required Gas Supply.

(a) The minimum hourly volume of gas required at each lot outlet, or any section of a park gas piping system shall be calculated as shown in Table 1230–1.

(b) Required gas supply for other fuel gas consuming appliances connected to the park gas piping system shall be calculated as provided in the California Plumbing Code, Chapter 12.

Table 1230–1
Demand Factors for Use in
Calculating Gas Piping Systems in Parks

Number of Lots	*BTU Per Hours Per Lot*
1	125,000
2	117,000
3	104,000
4	96,000
5	92,000
6	87,000
7	83,000
8	81,000
9	79,000
10	77,000
11–20	66,000
21–30	62,000
31–40	58,000
41–60	55,000
Over 60	50,000

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1232. Gas Pipe Size.

The size of each section of a gas piping system shall be calculated as provided in the California Plumbing Code, Chapter 12 or by other standard engineering methods acceptable to the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1234. Fuel Oil Tanks.

Tanks used for supplying fuel oil to a unit equipped with oil–burning appliances, shall not be larger than one hundred and fifty (150) gallons capacity. Not more than two (2) tanks with a combined maximum capacity of one hundred and fifty (150) gallons may be installed on any lot.

(a) Tanks shall be located not closer than five (5) feet to a lot line or the nearest side of a roadway.

(b) Tanks shall be located in an area not accessible to motor vehicles or shall be provided with protection from contact by vehicles by means of posts or other barriers approved by the enforcement agency.

(c) Tanks elevated above ground shall be maintained on rigid noncombustible supports of adequate size to support the tank when filled, and installed on concrete foundations or footings to prevent movement or settling. Each tank shall be securely fastened to the supporting frame.

(d) Every tank shall be adequately designed, installed, vented, and maintained to prevent entrance of rain and debris.

(e) A shutoff valve located immediately adjacent to the gravity feed connection of a tank shall be maintained in the supply line to the unit.

(f) Fuel oil connectors from the tank to the unit shall be brass or copper tubing or approved flexible metal hose not smaller than three–eighths (3/8) inch and shall be protected from physical damage. Aluminum tubing shall not be used.

(g) Valves and connectors shall be listed standard fittings maintained liquid–tight to prevent spillage of fuel oil on the ground.

(h) All fuel oil tanks shall be maintained in safe operating condition by the owner or lessee of the tanks, consistent with this section.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18610, 18690 and 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1698 to new section 1234, including amendment of section heading and section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1236. Authority to Order Disconnect of Fuel Gas Equipment.

(a) The enforcement agency shall require the gas utility or person supplying gas to a park to disconnect any gas piping or equipment found to be defective and in such condition as to endanger life or property.

(b) Gas piping or equipment which has been ordered disconnected by the enforcement agency shall not be reconnected to a gas supply until a permit has been obtained to alter, repair or reconstruct the gas piping and the work has been inspected and approved by the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550 and 18690, Health and Safety Code.

HISTORY

1. Renumbering of former section 1672 to new section 1236, including amendment of section heading and section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 5. Plumbing Requirements

§ 1240. Application and Scope.

(a) The requirements of this article shall apply to the construction, installation, arrangement, alteration, use, maintenance, and repair of all plumbing equipment and installations to supply water to, and dispose sewage from, units, accessory buildings or structures and permanent buildings in all parts of the state.

(b) Existing plumbing construction, connections, and installations made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Sections 18300, 18554, 18610 and 18630, Health and Safety Code. Reference: Sections 18554, 18610 and 18630, Health and Safety Code.

HISTORY

1. Repealer and new section filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1242. Application and Scope.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18300 and 18630, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1244. Permits Required.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18500 and 18630, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1246. Basic Plumbing Regulations.

(a) Except as otherwise permitted or required by this article, all requirements for plumbing equipment and installations outside of permanent buildings in parks shall comply with the California Plumbing Code, with the exception of Chapter 1.

If there is any conflict between the provisions of this chapter and the California Plumbing Code, the provisions of this chapter shall prevail.

(b) All requirements for plumbing equipment and installations within permanent buildings in parks shall comply with the California Plumbing Code, except in a city, county, or city and county, which has assumed enforcement responsibility and has adopted, and is enforcing, a plumbing code equal to or greater than the requirements of this article.

NOTE: Authority cited: Sections 18300 and 18630, Health and Safety Code. Reference: Sections 18300 and 18630, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 5–26–87; operative 6–25–87 (Register 87, No. 23).
3. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1248. Sewage Disposal.

(a) All park drainage systems shall discharge into a public sewer or a private sewage disposal system approved by the local health department.

(b) Septic tanks shall not be located within five (5) feet of any unit, accessory building or structure, or permanent building. Leach or disposal fields shall not be located within eight (8) feet of any unit, accessory building or structure, or permanent building.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18554 and 18630, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1250. Material.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1252. Installation.

Listed nonmetallic pipe and fittings installed in park drainage systems shall be installed in accordance with their listing and applicable standards. When installed under roadways, minimum depth of cover for nonmetallic drain pipe shall be thirty–six (36) inches. The pipe shall be bedded on a minimum of three (3) inches of clean sand and shall be backfilled with a minimum cover depth of six (6) inches of clean sand, granulated earth or similar material. The trench shall then be backfilled in thin layers to a minimum of twelve (12) inches above the top of the nonmetallic pipe with clean earth, which shall not contain stones, boulders or other materials, which would damage or break the pipe.

NOTE: Authority cited: Sections 18300 and 18630, Health and Safety Code. Reference: Sections 18610 and 18630, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11356.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1254. Lot Drain Inlet.

(a) Each lot shall be provided with a drain inlet not less than three (3) inches in diameter and shall be connected to an approved sewage disposal system.

(b) Drain inlets shall be provided to accommodate a threaded or clamp–type fitting for connecting drain connectors at proper grade. The drain inlet shall be accessible at ground level. The vertical riser of a drain inlet shall not exceed three (3) inches in height above the concrete supporting slab. Drain inlets shall be gas–tight when not in use.

(c) Each drain inlet shall be protected from movement by being encased in a concrete slab not less than three and one–half (3 1/2) inches in thickness and surrounding the inlet by not less than six (6) inches on any side.

(d) Drain inlets and extensions to grade shall be of material approved for use under or within a building.

(e) The lot drain inlet shall be located within four (4) feet of the outside of the unit, or under the unit within eighteen (18) inches of the exterior wall of the unit.

NOTE: Authority cited: Sections 18300 and 18630, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (d) filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1256. Location of Lot Drain Inlet.

NOTE: Authority cited: Sections 18300 and 18630, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Amendments filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1258. Trap.

When a unit is installed, or proposed to be installed and its plumbing fixtures are not protected by approved traps and vents, a lot drain inlet shall be provided with an approved trap.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1260. Venting.

Where a drain inlet trap is provided, it shall be individually vented with a vent pipe of not less than two (2) inches interior diameter unless the system is a wet vented system as provided in section 1264 of this article.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1262. Vent Location and Support.

All vent pipes in outdoor locations shall be located at least ten (10) feet from an adjoining property line and shall extend at least ten (10) feet above ground level. All vent pipes shall be supported by at least the equivalent of a four (4) inch by four (4) inch nominal dimension redwood post securely anchored in the ground. One–piece galvanized iron vent pipes may be self–supporting if securely anchored at their base in concrete at least twelve (12) inches in depth and extending a minimum four (4) inches out from the pipe.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1264. Wet Vented Systems.

(a) In lieu of the individual vents, the park drainage system may be wet vented by means of a combination drain, waste, and vent system. Wet vented systems in which the trap for one or more lots is not individually vented shall be of sufficient size and provided with an adequate vent or vents to assure free circulation of air. Wet vented drainage systems may be permitted only when each such system conforms to Table 1268–1 and Table 1268–2 and all of the following requirements for such systems:

(1) A wet vented drainage system shall have a terminal vent installed not more than fifteen (15) feet downstream from the uppermost trap on any branch line and shall be relief vented at intervals of not more than one hundred (100) feet or portion thereof.

(2) Wet vented drainage laterals shall be not more than six (6) feet in length for three (3)–inch diameter pipe and not more than fifteen (15) feet in length for four (4)–inch diameter pipe.

(3) No vertical drain pipe shall be permitted in any wet vented drainage system, except the tail pipe of the trap or riser of the drain inlet. Tail pipes shall be as short as possible, and in no case shall exceed two (2) feet in length.

NOTE: Authority cited: Sections 18300 and 18630, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Repealer of subsections (d) and (e) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1266. Systems Without Traps.

Terminal or relief vents are not required for drainage systems without traps.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1268. Pipe Size.

(a) Each lot drain inlet shall be assigned a waste loading value of six (6) fixture units and each park drainage system shall be sized according to Table 1268–1 or as provided herein. Drainage laterals shall be not less than three (3) inches in diameter.

(b) A park drainage system in which the grade, slope, or sizing of drainage pipe does not meet the minimums specified in Tables 1268–1 or 1268–2 shall be designed by a registered engineer for a minimum velocity flow of two (2) feet per second.

(c) Park drainage systems installed without P–traps or vents may be sized for individually vented systems in accordance with Table 1268–1.

(d) A park drainage system which exceeds the fixture unit loading of Table 1268–1 shall be designed by a registered engineer.

TABLE 1268–1
Drainage Pipe Diameter and Number of
Fixture Units on Drainage System

Size of Drainage Pipe (Inches)	*Maximum No. of Fixture Units Individually Vented System*	*Maximum No. of Fixture Units Wet Vented System*	*Terminal & Relief Vent Wet Vented System (Inches)*
3	35	14	2
4	180	35	3
5	356	180	4
6	600	356	4

TABLE 1268–2
Minimum Grade and Slope of Drainage Pipe

Pipe Size (inches)	*Slope per 100 ft. (inches)*	*Pipe Size (inches)*	*Slope per 100 ft. (inches)*
2	25	6	8
3	20	8	4
4	15	10	3 1/2
5	11	12	3

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1270. Lot Water Service Outlet.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18630, 18691, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1272. Shutoff Valve.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1274. Lot Water Service Outlet.

(a) Each lot shall be provided with a potable water lot service outlet. The lot water service outlet riser shall be an approved rigid metallic material and not less than three–quarter (3/4) inch nominal pipe size. Each lot water service outlet shall be provided with an accessible water outlet designed for connecting a three–quarter (3/4) inch female swivel hose connection as defined in section 1308 of this chapter, in addition to the unit water connection.

(b) The lot water outlet shall be located within four (4) feet of the outside of the unit, or under the unit within eighteen (18) inches of the exterior wall of the unit.

(c) A separate water service shutoff valve shall be installed in each lot water service outlet at each lot.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18630 and 18691, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1276. Pressure.

(a) Parks constructed between July 11, 1979 and July 6, 2004, shall have water distribution systems capable of providing a pressure not less than fifteen (15) pounds per square inch at each lot at maximum operating conditions. Parks constructed before and after the above dates must be capable of maintaining twenty (20) pounds per square inch at maximum operating conditions.

(b) The testing of a water system in a park to determine the maximum operating condition shall be either performed at the reported time of maximum water pressure loss, if within normal business hours, or measured with twenty–five (25) percent of the required lot water supply outlets, as defined in section 1308 of this chapter, open with the pressure metering device at the end of the tested line.

NOTE: Authority cited: Sections 18300 and 18630, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. New section filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29). For prior history, see Register 2004, No. 28.
2. Editorial correction of HISTORY 1 (Register 2005, No. 33).

§ 1278. Water Pipe Size.

(a) The quantity of water required to be supplied to each lot shall be as required for six (6) fixture units.

(b) Park water distribution systems shall be designed and installed as set forth in California Plumbing Code, Chapter 6, and Appendix A.

NOTE: Authority cited: Sections 18300 and 18630, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1280. Mechanical Protection.

Where subject to physical damage, all park water service outlets shall be protected by posts, fencing, or other barriers approved by the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18630, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1282. Mobilehome Water Connector.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18630, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Editorial correction of section heading (Register 2005, No. 33).

§ 1284. Water Conditioning Equipment.

(a) A permit shall be obtained from the enforcement agency prior to installing any regenerating water conditioning equipment on a lot. Approval of the park operator is required on all applications for a permit to install such equipment. Where the water conditioning equipment is of the regenerating type, and the park drainage system discharges into a public sewer, approval of the sanitary district or agency having jurisdiction over the public sewer is required prior to issuance of the permit.

(b) Regenerating water conditioning equipment shall be listed and labeled by an approved listing agency.

(c) Regenerating units shall discharge the effluent of regeneration into a trap not less than one and one–half (1 1/2) inches in diameter connected to the park drainage system. An approved air gap shall be installed on the discharge line a minimum of twelve (12) inches above the ground. The trap need not be vented.

(d) Electrical supply connections to regenerating water conditioning equipment shall comply with the requirements of this chapter.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18630 and 18670, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 6. Fire Protection Standards for Parks

§ 1300. Application and Scope.

(a) For parks with a permit to construct dated on or after July 7, 2004, fire protection equipment meeting the requirements of the National Fire Protection Association (N.F.P.A.) Standard No. 24, 1995 Edition, which is hereby incorporated by reference, shall be installed and maintained in every park consisting of fifteen (15) or more lots, or parks enlarged to consist of fifteen (15) or more lots. Installation of fire protection equipment is required only for the new lots added.

(b) For parks with a permit to construct dated between September 1, 1968, and July 7, 2004, fire protection equipment meeting the requirements of the National Fire Protection Association (N.F.P.A.) Standard No. 24,1977 Edition, which is hereby incorporated by reference, shall be maintained in every park consisting of fifteen (15) or more lots.

(c) Testing of Private Fire Hydrants. Park owners and operators shall be responsible for the operation and water flow requirements of all private fire hydrants installed in any park, regardless of its age or number of lots in the park, and responsible for compliance with other applicable provisions of this article.

(d) Reciprocity of Enforcement Agencies. The provisions of section 1302 and sections 1316 through 1318 of this article, do not create any obligation for the enforcement agency to report violations to a fire agency, or for the fire agency to report violations to the enforcement agency. However, this subsection does not preclude either enforcement agencies or fire agencies from sharing information related to fire prevention or suppression in parks.

NOTE: Authority cited: Sections 18300 and 18691, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 1–3–2002; operative 1–3–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).
3. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1302. Local Fire Prevention Code Enforcement.

(a) When the department is the enforcement agency, a fire agency, as defined in this chapter, may elect to assume responsibility to enforce its fire prevention code in parks, within its jurisdictional boundaries, by providing the department with a written thirty (30) day notice pursuant to Health and Safety Code section 18691(d).

(b) The written notice assuming enforcement responsibilities for fire prevention shall clearly identify the geographical boundaries of the jurisdiction of the fire agency and include the name and address of each park located within these geographical boundaries.

(c) The fire agency that has assumed responsibility to enforce its fire prevention code in parks within its jurisdictional boundaries pursuant to this article, shall do all of the following:

(1) Enforce its fire prevention code as it applies to each of the following areas: fire hydrant systems, water supply, fire equipment access, posting of fire equipment access, parking, lot identification, weed abatement, debris abatement, combustible storage abatement and burglar bars.

(2) Apply its fire prevention code provisions only to conditions:

(A) that arise after the adoption of its fire prevention code;

(B) not legally in existence at the adoption of its fire prevention code; or

(C) that, in the opinion of the fire chief, constitute a distinct hazard to life or property.

(3) Upon assuming responsibility to enforce its fire prevention code in parks within its jurisdictional boundaries, the fire agency shall notify all park operators within thirty (30) days of the assumption of enforcement responsibility.

(A) This notification shall include identification of the specific applicable codes that will be enforced, where copies of the identified codes may be obtained, and the scope and proposed time frame of any established or proposed inspection program.

(B) The park operator shall post a copy of the notification in the park as near as possible to the location where the annual permit to operate is posted in order to advise the occupants of the park of the change in enforcement jurisdiction.

(d) A fire agency that has assumed responsibility for enforcement of its fire prevention code, pursuant to this article and Section 18691 of the Health and Safety Code, shall also be deemed to have assumed fire prevention enforcement responsibility within its jurisdictional boundaries for all special occupancy parks, as set forth in Title 25, California Code of Regulations, commencing with Section 2300 and Section 18873.5 of the Health and Safety Code,

(e) If a fire agency, that has assumed responsibility to enforce its fire prevention code in parks within its jurisdictional boundaries, decides to cancel its responsibility, it shall provide the following:

(1) A written notice to the department not less than thirty (30) days prior to the proposed cancellation date.

(2) A written cancellation notice clearly identifying the geographical boundaries of the jurisdiction for which the fire agency is returning enforcement, and includes the name and address of each park located within these geographical boundaries.

(3) A written notification to all park operators within its jurisdictional boundaries of the cancellation of enforcement responsibility prior to the date of cancellation of enforcement responsibility. The notice shall contain the date of transfer for enforcement responsibility and a statement to the park operator to post the notice.

(A) The park operator shall post a copy of the notification in the park as near as possible to the location where the annual permit to operate is posted in order to advise the occupants of the park of the change in enforcement jurisdiction.

(4) Transfer all park records to the department on or before the effective date of the transfer of enforcement responsibility.

(f) A fire agency canceling its responsibility for enforcement of its fire prevention code, according to this article and Section 18691 of the Health and Safety Code, shall also be deemed to have canceled its fire prevention enforcement responsibility, within its jurisdictional boundaries, for all special occupancy parks, as set forth in Title 25, California Code of Regulations, commencing with Section 2300 and Section 18873.5 of the Health and Safety Code.

NOTE: Authority cited: Sections 18300 and 18691, Health and Safety Code. Reference: Sections 18300 and 18691, Health and Safety Code.

HISTORY

1. New section filed 1–3–2002; operative 1–3–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1). For prior history, see Register 85, No. 36.
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1304. Local Regulations.

(a) The provisions of this article are not applicable in parks located within a city, county, or city and county that is the enforcement agency and has adopted and is enforcing a fire prevention code imposing restrictions equal to or greater than the restrictions imposed by this article.

(b) Any reporting requirements imposed by the local agency fire prevention code shall be in addition to, and shall not replace, the reporting requirements of this article.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18300 and 18691, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 1–3–2002; operative 1–3–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1305. Fire Fighting Instructions.

In areas where fire department services are not available, the park operator shall be responsible for the instruction of park staff in the use of private park fire protection equipment and their specific duties in the event of fire.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1684 to new section 1305, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1306. Permits Required.

No person shall construct, reconstruct, modify, or alter any installations relating to fire protection equipment within a park unless a written permit has been obtained from the enforcement agency with written evidence of approval from the fire agency responsible for fire suppression in the park.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18500, Health and Safety Code.

HISTORY

1. Amendment filed 1–3–2002; operative 1–3–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1308. Lot Installations.

In addition to the water connection to the unit, each lot constructed shall have installed an accessible three–quarter (3/4)–inch valved water outlet, with an approved vacuum breaker installed, designed for connecting a three–quarter (3/4)–inch female swivel hose connection for fire suppression use.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1310. Alternate Systems.

Where the required water supply is inadequate to comply with the provisions of this article and either outside protection, or local conditions justify reducing this requirement, other hydrant systems may be installed provided the alternate system is approved by the fire agency responsible for fire suppression in the park and by the enforcement agency.

NOTE: Authority cited: Sections 18300 and 18691, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer and new section filed 1–3–2002; operative 1–3–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).
3. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1312. Private Systems.

In areas where fire department services are not available, as determined by the enforcement agency, a private fire protection system shall be installed and maintained consisting of hydrant or wet standpipe risers connected to the park water main or a separate system capable of delivering seventy–five (75) gallons per minute at thirty (30) psi with at least two lines open, in addition to the normal requirements of the park, and with the hydrants or wet standpipes located within seventy–five (75) feet of each lot. Each hydrant or wet standpipe shall be provided with an approved one–and–one–half (1 1/2) inch hose valve and connection with one, one–and–one–half (1 1/2) inch national standard male outlet and shall have connected thereto a minimum of seventy–five (75) feet of one and one–half (1 1/2) inch cotton or dacron jacketed rubber lined fire hose with an approved cone type nozzle with a minimum one–half (1/2) inch orifice. The fire hose shall be mounted on an approved hose rack or reel enclosed in a weather resistant cabinet which shall be painted red and marked "FIRE HOSE" in four (4) inch letters of contrasting color.

NOTE: Authority cited: Sections 18300, 18610 and 18691, Health and Safety Code. Reference: Sections 18610 and 18691, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1314. Care of Equipment.

All fire protection and suppression equipment shall be protected against freezing in any areas subject to freezing.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1694 to new section 1314, including amendment of section heading and section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.

§ 1316. Private Fire Hydrant Operation and Water Flow Requirements.

(a) Private fire hydrants, as defined in this article, shall meet the operational requirements as prescribed in subsection (b) of this section, and meet the water flow standards prescribed by subsection (c) of this section.

(b) Operation. Private fire hydrants shall have at least the following characteristics in order to be considered operational for the purposes of this article:

(1) valves that operate fully, freely and are properly lubricated,

(2) threads and caps that are undamaged,

(3) reasonable protection from vehicular damage,

(4) outlets on hydrants are fourteen (14) inches to twenty–four (24) inches above grade. Standpipes outlets need not be a specific height, but must be readily accessible.

(5) thirty–six (36) inches of unobstructed access around the hydrants;

(6) locators or markings to clearly identify their location; and

(7) Each one and one–half (1 1/2) inch hydrant meets the requirements for hoses, locations, storage and storage cabinet marking as defined in section 1312 of this article.

(c) Water Flow. Private fire hydrants, as defined in this article, shall have water flow not less than any one of the following:

(1) five hundred (500) gallons per minute with a minimum residual pressure of twenty (20) psi for a fire hydrant with a four (4) inch or larger barrel or riser, or

(2) two hundred and fifty (250) gallons per minute with a minimum residual pressure of twenty (20) psi for a fire hydrant with a two and one–half (2 1/2) inch barrel or riser, or

(3) seventy–five (75) gallons per minute with a minimum residual pressure of thirty (30) psi for a fire hydrant with a one and one–half (1 1/2) inch outlet with an approved one–and–one half–inch (1–1/2) hose as required in section 1312.

NOTE: Authority cited: Sections 18300 and 18691, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. New section filed 1–3–2002; operative 1–3–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1317. Private Fire Hydrant Test and Certification.

(a) Verification of Private Fire Hydrant Test and Certification. The Private Fire Hydrant Test and Certification Report, a form defined in section 1002 of this chapter, shall be used to verify that private fire hydrants have been tested and certified for operation and water flow. All park operators shall submit the form, including parks that qualify for testing exceptions, to the enforcement agency for the park.

(b) Annual Test and Certification of Operation. Private fire hydrants shall be tested annually in order to determine that they are operational as specified in subsection 1316(b) of this article. Verification shall be submitted to the enforcement agency and to the fire agency responsible for fire suppression in the park, as required in section 1319 of this article. The annual hydrant operational test may be performed and verified by a park operator for the years between the five–year water flow tests. However, the five–year test and certification of water flow and the operational test performed at that time shall not be certified by the park operator. The five–year test and certification of water flow and the operational test shall only be certified by one of the entities listed in subsection (c) of this section.

(c) Five–Year Test and Certification of Water Flow and Operational Test.

(1) Private fire hydrants shall be tested and certified at least once every five (5) years for minimum water flow as prescribed in section 1316 of this article, as well as for operation as specified in subsection 1316(b) of this article. Certification shall be submitted to the enforcement agency and to the fire agency responsible for fire suppression in the park as required in section 1319 of this article.

(2) Parks existing prior to December 31, 2002, shall submit verification of their five–year test and certification for minimum water flow, beginning with the permit to operate renewal year 2008, after the initial water flow test has been completed.

(3) The five–year test and certification of the required water flow and the operational test shall be conducted during the 12 months prior to the renewal of each fifth year park permit to operate. The previous five–year renewal for the prior permit to operate must have complied with the required water flow standards set forth in section 1316 of this article.

(4) Testing for the required water flow shall be conducted in such a manner as to ensure there is no pollution of the storm drain system or any other water or drainage systems within, or serving, the park, and no damage to structures or improvements within or outside of the park.

(5) The test results reported on the designated form shall only be certified by one of the following:

(A) the fire agency responsible for fire suppression in the park,

(B) a local water supplier,

(C) a licensed C–16 Fire Protection Contractor, or

(D) a licensed Fire Protection Engineer.

(6) In order to certify the test results reported on the form, the fire agency responsible for fire suppression in the park, local water supplier, licensed C–16 fire protection contractor, or licensed Fire Protection Engineer shall witness the test. The fire agency responsible for fire suppression in the park, local water supplier, licensed C–16 fire protection contractor, or licensed Fire Protection Engineer, may also perform the test.

NOTE: Authority cited: Sections 18300, 18610 and 18691, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. New section filed 1–3–2002; operative 1–3–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).
2. Change without regulatory effect amending subsections (a), (b)(1) and (b)(2)–(d) filed 11–7–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 45).
3. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
4. Amendment of section and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1318. Private Fire Hydrants with Violations.

(a) Correction of Violation. If, at any time, a test undertaken pursuant to this article, or any other test or event, indicates that a private fire hydrant is in violation of any provision of section 1316, within sixty (60) days of the date of the event or the test of the private fire hydrant, the park operator shall obtain a permit to construct from the park enforcement agency, and shall promptly begin and maintain activity to ensure the private fire hydrant meets the minimum requirements of this article. This timeframe may be extended for extenuating circumstances subject to approval by the enforcement agency.

(b) Approval to Use Existing Private Fire Hydrant. Where the water flow test of a private fire hydrant reveals a water flow less than that specified in subsection 1316(c) of this article, and it is determined that the private fire hydrant cannot be repaired to meet the water flow requirement, the park operator may request approval from the fire agency responsible for fire suppression in that park to continue using the existing private fire hydrant. Approval to use the existing private fire hydrant may be granted by an authorized agent for the fire agency responsible for fire suppression in the park, by signing Part VI on the form prescribed in subsection 1317(a).

NOTE: Authority cited: Sections 18300 and 18691, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. New section filed 1–3–2002; operative 1–3–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).
2. Change without regulatory effect amending subsection (b) filed 11–7–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 45).
3. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1319. Private Fire Hydrant Compliance for Park Operation.

(a) Permits to operate shall not be issued for parks with private fire hydrants that do not meet the requirements of this article.

(b) When applying for or renewing a permit to operate, the park operator shall submit the original form prescribed in subsection 1317(a) to the enforcement agency, as defined in this article, and a copy forwarded to the fire agency responsible for fire suppression in the park.

(c) Provided a park meets all other requirements for obtaining or renewing a permit to operate, a permit to operate may be issued to a park where the form prescribed in subsection 1317(a), has been submitted to the enforcement agency and one of the following options exists:

(1) the form shows no violations;

(2) the water flow test reveals a water flow less than that specified in subsection 1316(c) of this article, and the park operator has obtained an approval for the continued use of the existing private fire hydrant from the fire agency responsible for fire suppression in that park, pursuant to subsection 1318(b);

(3) a construction permit has been obtained and activity maintained to ensure the private fire hydrant meets the minimum requirements of this article;

(4) all violations of section 1316 are corrected, and a revised or final form as prescribed in subsection 1317(a), verifying the correction, has been submitted to the enforcement agency, or

(5) the system meets or exceeds the requirements approved at the time of its construction.

(d) Refusal to issue a permit to operate pursuant to this section shall not preclude a park enforcement agency from pursuing other enforcement remedies as provided by law, or the fire agency from pursuing enforcement remedies provided by applicable laws or ordinances.

(e) The enforcement agency shall maintain, for a minimum of six (6) years, all copies of the form prescribed in subsection 1317(a), which shall be available for review by the department.

NOTE: Authority cited: Sections 18300 and 18691, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. New section and new Form HCD MP 532 filed 1-3-2002; operative 1-3-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 1).
2. Change without regulatory effect amending subsections (b), (c), (c)(4) and (e) filed 11-7-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 45).
3. Amendment filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
4. Amendment of subsections (c)(2)-(c)(4), new subsection (c)(5) and amendment of subsection (d) filed 7-22-2005; operative 7-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
5. Editorial correction of HISTORY 4 (Register 2005, No. 33).

Article 7. MH-Unit and Commercial Modular Installations and Facilities

§ 1320. Application and Scope.

(a) The requirements of this article shall apply to the installation of MH-units and shall apply to all parts of the state within and outside of parks.

(b) Installation provisions that apply to manufactured homes shall apply equally to multi-unit manufactured housing installations subject to California Health and Safety Code section 18008.7, this chapter and any other applicable laws or regulations.

(c) The requirements of this article also apply to any MH-unit reinstallation or any alteration, addition or changes to an original or prior MH-unit installation.

(d) These installation requirements do not apply to recreational vehicles or to MH-units set up for display on dealer sales lots. However, MH-units displayed as sales models in parks shall comply with the requirements of this chapter.

(e) An installation or reinstallation on a different lot pursuant to Health and Safety Code section 18613, shall include the following:

(1)(A) A tiedown system consisting of listed tiedown assemblies installed as required by section 1336.2 of this article, or

(B) An engineered tiedown system designed by an engineer or architect in compliance with section 1336.3 and installed according to the engineered plans and specifications; and

(2) If concrete piers or steel piers are used in the support system for the MH-unit, mechanical connection of the piers to the MH-unit and of the piers to their footing in compliance with the requirements of section 1334.1.

(f) Existing construction, connections, and installations of MH-units made before the effective date of the requirements of this chapter, may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

(g) Sections 1333 and 1333.5 of this article apply to commercial modulars installed on foundation systems and are applicable to all parts of the state both within and outside of parks.

NOTE: Authority cited: Sections 18300, 18551, 18613 and 18613.4, Health and Safety Code. Reference: Sections 18008.7, 18045.6, 18551, 18613 and 18613.4, Health and Safety Code.

HISTORY

1. Amendment filed 12-21-79 as an emergency; designated effective 1-1-80. Certificate of Compliance included (Register 79, No. 51).
2. Repealer and new section filed 8-22-85; effective upon filing pursuant to Government Code section 11346.2(d) (Register 85, No. 36).
3. Amendment of article heading, designation and amendment of subsections (a)-(b), new subsections (c)-(e) and amendment of NOTE filed 9-8-94 as an emergency; operative 9-19-94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1-17-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of article heading, designation and amendment of subsections (a)-(b), new subsections (c)-(e) and amendment of NOTE refiled 1-18-95 as an emergency; operative 1-17-95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-17-95 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 1-18-95 order including amendment of subsections (c)(1)-(c)(1)(B) transmitted to OAL 3-31-95 and filed 5-12-95 (Register 95, No. 19).
6. Amendment of article heading, section and NOTE filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
7. Amendment of subsections (c), (e)(2) and (f), new subsection (g) and amendment of NOTE filed 7-22-2005; operative 7-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
8. Editorial correction of subsection (b) and HISTORY 7 (Register 2005, No. 33).

§ 1322. Application and Scope.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18300 and 18613, Health and Safety Code.

HISTORY

1. Repealer filed 8-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1324. Installation Permits.

(a) A permit shall be obtained from the enforcement agency each time an MH-unit, is located or installed on any site for the purpose of human habitation or occupancy. Permits are not required to locate recreational vehicles in a park.

(b) Requirements for applications and MH-unit installation permits are contained in Article 1.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18045.6, 18500, 18613 and 18630, Health and Safety Code.

HISTORY

1. Amendment filed 8-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section heading, section and NOTE filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1326. Inspection.

(a) An applicant obtaining a permit to install an MH-unit or commercial modular shall notify the enforcement agency and request inspection at least twenty-four (24) hours in advance of the time the installation is expected to be completed.

(b) The applicant (or their representative) to whom the permit to install an MH-unit was issued, shall:

(1) be on site and available to the official of the enforcement agency at the time of the inspection of the installation;

(2) have available to the enforcement official at the installation site a complete set of plans and specifications regarding the installation including the manufacturer's installation instructions, if available;

(3) provide on site test equipment required by section 1362, including a continuity tester, a polarity tester, and a pressure or slope gauge or manometer and

(4) perform the tests required in section 1362 of this article in the presence of the enforcement official.

(c) If the installation fails to comply with the requirements of sections 18551 or 18613 of the Health and Safety Code and/or this chapter, the enforcement agency shall provide a written notice of violation to the applicant or their representative stating the nature of the violation including a reference to the law or regulation being violated. The applicant or their representative shall perform the necessary corrective work and request reinspection within ten (10) days. The fee for reinspection shall be paid prior to reinspection.

(d) Upon completion of the MH-unit's installation, the MH-unit manufacturer's installation instructions, a copy of the approved plot plan, a copy of the permit, a copy of the plans and specifications for any engineered tiedown system or foundation system installed shall be placed by the installer within the MH-unit for retention by the unit's owner.

(e) The MH-unit shall not be occupied for human habitation prior to inspection and approval of the installation by the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18551, 18613 and 18613.4, Health and Safety Code.

HISTORY

1. Amendment filed 8-22-85; effective upon filing pursuant to Government Code section 11346.2(d) (Register 85, No. 36).
2. Amendment of subsection (a), new subsections (b)-(b)(3), redesignation and amendment of subsection (c), new subsection (d) and amendment of NOTE filed

9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.

3. Amendment of subsection (a), new subsections (b)–(b)(3), redesignation and amendment of subsection (c), new subsection (d) and amendment of NOTE refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 1–18–95 order including repealer and new subsection (b)(3) and amendment of subsection (d) transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).

5. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1328. Utility Facilities.

The utility facilities for the unit shall be either fully installed and approved or ready for inspection prior to the installation inspection of the unit on that lot. The unit shall not be approved for occupancy until all the required lot utilities have been approved. All connections shall comply with the requirements of this chapter.

NOTE: Authority cited: Sections 18300, 18610, 18613, 18630, 18670 and 18690, Health and Safety Code. Reference: Sections 18550, 18551, 18610, 18613, 18630, 18670 and 18690, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

2. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1330. Unit Separation and Setback Requirements Within Parks.

(a) In parks, or portions of parks, constructed prior to September 15, 1961, units shall not be located closer than six (6) feet from any permanent building or another unit.

(b) In parks, or portions of parks, constructed on or after September 15, 1961, minimum separation distance shall be as follows:

(1) from a unit to any permanent building, not less than ten (10) feet.

(2) from a unit to any other unit, not less than:

(A) ten (10) feet from the side of one unit to the side of an adjacent unit;

(B) eight (8) feet from the side of one unit to the front or rear of an adjacent unit; and

(C) six (6) feet from the front or rear of one unit to the front or rear of an adjacent unit.

(c) A minimum setback of three (3) feet shall be maintained from the unit or the unit's projection or eave overhang and the adjacent lot line or property line. However, a unit may be installed up to a park roadway or common area provided there is no combustible building or structure in the common area within six (6) feet, and no building or structure of any kind within three (3) feet, of any portion of the unit. The maximum seventy–five percent (75%) lot coverage allowed by section 1110 of this chapter shall be maintained. Projections or eave overhangs shall not extend beyond a lot line bordering a roadway or common area.

(d) Unit projections or eave overhangs may intrude into the minimum distances required for separation, where separation requirements between units, as defined in subsection (b) of this section, are greater than six (6) feet, provided not less than a six (6)–foot separation is maintained between the edge of any unit projection or eave overhang, and an adjacent unit, permanent building, or combustible accessory building or structure and its projection, or eave overhang.

(e) Lot lines shall be identified as prescribed by section 1104.

(f) Units installed outside of parks shall comply with local requirements for setbacks and separations and shall not be required to have greater setbacks or separation than other similar dwellings within the local agency's jurisdiction.

(g) Setback and separation requirements for accessory buildings and structures or building components are contained in section 1428 of Article 9.

NOTE: Authority cited: Sections 18300 and 18610, Health and Safety Code. Reference: Sections 18300, 18551, 18610 and 18613, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

2. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

3. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).

4. Editorial correction of subsection (g) and HISTORY 2 (Register 2005, No. 33).

5. Amendment of subsection (c) filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1332. Local Requirements.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18300, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1333. Foundation Systems.

(a) Pursuant to Health and Safety Code section 18551, the requirements for MH–unit and commercial modular foundation systems are applicable throughout the state.

(b) The foundation system and the connection of the MH–unit or commercial modular to the foundation system shall be designed to withstand the vertical and lateral forces due to dead load, roof and floor live loads, wind and seismic loads in accordance with the provisions of the California Building Code, Chapter 16, and local soil conditions. The roof live load, wind and seismic loads as established for permanent buildings within specific local areas shall apply.

(c) The vertical and lateral load resisting elements shall be sized and located to resist the loads specified in the manufacturer's installation instructions. The manufacturer's installation instructions shall become a part of the foundation system plans. In the absence of the manufacturer's installation instructions, plans and specifications signed by an architect or engineer covering the installation of an individual MH–unit or commercial modular shall be provided to the enforcement agency.

(d) The foundation system and the connection of the MH–unit or commercial modular to the foundation system shall be capable of withstanding the vertical and lateral loads shown in the manufacturer's installation instructions, or plans and specifications signed by an architect or engineer, including locations where there are concentrated loads.

(e) When an MH–unit or commercial modular is installed on a foundation system, a foundation system plan shall be provided to the enforcement agency. The manufacturer may provide a foundation system plan in its installation instructions, or a foundation system plan may accompany the installation instructions. Foundation systems may be approved by the enforcement agency or the department. Foundation systems approved by the department shall be accepted by every enforcement agency as approved for the purpose of obtaining a construction permit when the design loads and conditions are consistent for the locality. The department shall require that foundation system plans and supporting data be signed by an architect or engineer.

(f) Foundations for cabanas, porches, and stairways which are accessory to MH–units on foundation systems and foundations for building components shall be subject to approval of the enforcement agency. Porches and stairways which are accessory to commercial modulars on a foundation system shall be subject to approval of the enforcement agency.

(g) When it is necessary for the department to approve plans or to make investigations of complaints relating to foundation system plans, fees shall be paid in accordance with section 1020.9 of article 1.

(h) A standard plan approval may be obtained from the department for a plan for MH–unit or commercial modular foundation systems. The requirements for obtaining a standard plan approval are contained in section 1020.9 of article 1.

(i) Multi–unit manufactured housing consisting of three (3) or more dwelling units shall be installed on a foundation system pursuant to Health and Safety Code section 18551(a) or (b).

NOTE: Authority cited: Sections 18300, Health and Safety Code. Reference: Sections 18551 and 18008.7, Health and Safety Code.

HISTORY

1. New section filed 12–21–79 as an emergency; designated effective 1–1–80. Certificate of Compliance included (Register 79, No. 51).
2. Amendment of subsection (f) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
3. Amendment filed 8–22–85; effective thirtieth day thereafter (Register 85, No. 36).
4. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1333.5. Utility Connections for Manufactured Homes, Mobilehomes, and Commercial Modulars on Foundation Systems.

(a) When an MH–unit is installed on a foundation system pursuant to section 18551 of the Health and Safety Code, utility connections shall comply with the requirements of this chapter, or at the discretion of the MH–unit owner, the connections may be installed as required for permanent residential buildings in compliance with the California Plumbing Code and California Electric Code.

(b) Whenever a commercial modular is installed, the utility connections shall comply with the California Plumbing Code and the California Electrical Code.

(c) The testing of MH–unit utility systems and connections installed on a foundation system shall be performed in accordance with section 1362 of this Article.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18551, Health and Safety Code.

HISTORY

1. New section filed 12–21–79 as an emergency; designated effective 1–1–80. Certificate of Compliance included (Register 79, No. 51).
2. Amendment filed 8–22–85; effective thirtieth day thereafter (Register 85, No. 36).
3. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1334. MH–Unit Support Piers and Footings.

(a) Load bearing piers shall be constructed of rust resistant materials or treated to resist rust and designed and constructed in accordance with the design requirements of the California Building Code, Chapters 16, 19, 21, 22 and 23. The required load bearing capacity of individual support piers and their footings shall be calculated at not less than a combined live and dead load of seventy–five (75) psf based on roof live and dead load of twenty–five (25) psf and floor live and dead load of fifty (50) psf of the MH–unit.

(b) Load bearing piers, other than concrete block piers, shall be tested to determine the safe operating load. The tests shall be conducted by testing agencies approved by the department. Testing agencies shall provide a pier testing report to the department upon completion, regardless of the testing results. A unique number provided by the testing agency shall identify each test report. The following testing procedures shall be used:

(1) A compression test shall be performed on three (3) piers of the same height and construction, selected randomly at the pier manufacturing facility by a representative of the testing agency.

(A) The compression test shall be performed on piers with all required design assemblies installed, such as adjustable tops, clamps, securement devices or similar assemblies.

(B) The selected piers shall be subjected to the compression test with each pier, fully assembled as will be installed, placed squarely on a firm base, and tested to its failure point. The compression test shall be measured in psf. Support pier failure will be established when the support bends, cracks, buckles or deflects to an unsafe level as determined by the approved testing agency.

(C) The safe operating load of a support pier is one–third (1/3) the average of the three (3) failure tests.

(2) When piers differ in height or construction, design tests and evaluations must be performed on each type of pier.

(c) Tested load bearing piers other than concrete block piers shall be listed and labeled as follows:

(1) Listing of piers shall be conducted by listing agencies approved by the department.

(A) The listing agency shall conduct manufacturer facility audits and prepare finding reports not less than once per year. The audit report will include, at a minimum:

(i) the review of pier construction for compliance with manufactured designs as approved by the testing agency,

(ii) the materials used in its construction including type, size, and weight,

(iii) the manufacturers quality control program, if applicable, and

(iv) the label application and label control process.

(B) The listing agency shall provide an annual report to the department of its approval and audit findings.

(2) Pier supports shall display a legible permanent label of approval, visible when the pier support is installed. The label shall contain the following information:

(A) Manufacturer's name,

(B) Listing agency name,

(C) Listing number issued by the listing agency,

(D) Testing agency's approved operating load, and

(E) Testing agency's test report number.

(d) Individual load bearing footings may be placed on the surface of the ground, and shall be placed level on cleared, firm, undisturbed soil or compacted fill. Where unusual soil conditions exist, as determined by the enforcement agency, footings shall be designed to compensate for such conditions. The allowable loading on the soil shall not exceed one thousand (1,000) psf unless data to substantiate the use of higher values is approved by the enforcement agency.

(e) Footings shall be adequate in size to withstand the tributary live and dead loads of the MH–unit and any concentrated loads. The length to width ratio of the footing shall not exceed two and one–half (2.5) to one (1).

Individual footings for load bearing supports or devices shall consist of one of the following:

(1) Pressure treated lumber which meets the following requirements:

(A) Not less than two (2) –inch nominal thickness with a minimum of twenty–five (25) percent of the individual footings identified by an approved listing agency, as being pressure treated for ground contact.

(B) Knots. Well spaced knots of any quality are permitted in sizes not to exceed the following or equivalent displacement:

Nom. Width	*Any Location*	*Holes (Any Cause)*	
6″	2 3/8″	1 1/2″	
8″	3″	2″	One Hole or
10″	3 3/4″	2 1/2″	Equivalent
12″	4 1/4″	3″	Per Piece
14″	4 5/8″	3 1/2″	

(C) Splits. In no case exceed one–sixth (1/6) the length of the piece.

(D) Honeycomb or Peck. Limited to small spots or streaks of firm honeycomb or peck equivalent in size to holes listed in (B) above.

(2) Precast or poured in place concrete footings not less than three and one–half (3 1/2) inches in thickness. The concrete shall have a minimum twenty–eight (28)–day compressive strength of not less than two thousand five hundred (2500) psi.

(3) Other material, approved by the department, providing equivalent load bearing capacity and resistance to decay.

(f) Individual load bearing piers or devices and footings shall be designed and constructed with sufficient rigidity and bearing area to evenly distribute the loads carried over one–third (1/3) the area of the footings as measured from the center of the footing. When two (2) or more two (2)–inch nominal wood pads placed side–by–side on the ground are used as a pier footing, a single wood cross pad must be installed on top of the ground contact pads at a ninety (90)–degree angle so as to place the directional wood grains opposing to each other. The cross pad must be of a length to cover each ground contact pad and be of two (2) inch nominal

thickness. Footings shall be constructed of sufficient rigidity to evenly distribute the loads carried to the ground without bowing or splitting.

(g) When multiple wood footings are stacked, they shall be secured together with corrosion resistant fasteners at all four (4) corners of the pad which will penetrate at least eighty (80) percent of the base pad to prevent shifting.

(h) Individual load bearing piers, which do not include the footing as defined in section 1002 of this chapter, located under the MH–unit's chassis shall not exceed thirty–six (36) inches in height.

(i) When more then one–quarter (1/4) of the area of the MH–unit is supported at a height of three (3) feet or more as measured between each unit's chassis and the ground, the MH–unit shall be installed on a foundation system in accordance with sections 18551 (a) or (b) of the Health and Safety Code.

(j) No portion of the support system above the ground shall extend beyond the vertical plane of the side or end wall of the MH–unit that would restrict or inhibit installation of skirting.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Sections 18300 and 18613, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1334.1. Mechanical Connection of Concrete Piers or Steel Piers.

Mechanical connection of all steel piers or concrete piers to an MH–unit and to the pier's footing is subject to the requirements of this section.

(a) When live loads are applied to an MH–unit installed pursuant to Health and Safety Code section 18613, mechanical connection of steel piers or concrete piers shall be capable of maintaining the placement of the support system of the MH–unit to the point of the failure of either the attachment point on the MH–unit, the pier or the footing.

(1) The means of mechanical connection shall not allow the separation of the MH–unit from any pier or footing as a result of horizontal loads or vertical loads,

(2) Failure occurs when the attachment point on the MH–unit, the pier or the footing yields or fractures or is deformed to a point that threatens the health and safety of the occupants of the MH–unit.

(b) For the purposes of this section, live loads are restricted to the following:

(1) horizontal loads applied to the attachment point on the MH–unit in both directions parallel to the attachment point and in both directions perpendicular to the attachment point; and

(2) vertical loads applied to the attachment point on the MH–unit in both directions upward and downward from the point of contact between the pier footing and the ground.

(c) Mechanical connection of the concrete pier or steel pier to the point of attachment on the MH–unit shall comply with the following requirements:

(1) The means of mechanical connection shall be fabricated of steel that is not less than one–eighth (1/8) of an inch thick and not less than two (2) inches wide and two (2) inches long;

(2) Fasteners incorporated as part of the mechanical connection shall be no smaller than three–eights (3/8) inch grade 5 bolts, nuts and lock washers; and

(3) The means of mechanical connection shall not incorporate modifications of either the pier or of the MH–unit.

(4) The means of mechanical connection at the center line between each transportable section of a multi–section MH–unit shall consist of one quarter (1/4) inch lag bolts or wood screws and shall secure the pier to a wood floor structural member.

(d) A listed concrete pier or steel pier complies with subsection (c) if it incorporates into its structure a means of mechanical connection to the MH–unit.

(e) Mechanical connection of a concrete pier or steel pier to the pier's footing shall be fabricated of corrosion resistant components.

(f) A listed concrete pier or steel pier complies with subsection (e) if it incorporates into its structure a means of mechanical connection to the pier footing.

NOTE: Authority cited: Sections 18300, 18613 and 18613.4, Health and Safety Code. Reference: Section 18613.4, Health and Safety Code.

HISTORY

1. Renumbering of former section 1336.4 to new section 1334.1, including amendment of section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1334.2. Mechanical Connection of Concrete Block Piers.

While nothing in this section requires the installation of an MH–unit to include the mechanical connection of concrete block piers, the following standards have been developed for the mechanical connection of a concrete block pier to an MH–unit and to the pier's footing.

(a) When live loads are applied to an MH–unit installed pursuant to Health and Safety Code section 18613, mechanical connection of concrete block piers shall be capable of maintaining the placement of the support system of the MH–unit to the point of the failure of either the attachment point on the MH–unit, the pier or the footing.

(1) The means of mechanical connection shall not allow the separation of the MH–unit from any pier or footing as a result of horizontal loads or vertical loads.

(2) Failure occurs when the attachment point on the MH–unit, the pier or the footing yields or fractures or is deformed to a point that threatens the health and safety of the occupants of the MH–unit.

(b) For the purposes of this section, live loads are restricted to the following:

(1) horizontal loads applied to the attachment point on the MH–unit in both directions parallel to the attachment point and in both directions perpendicular to the attachment point; and

(2) vertical loads applied to the attachment point on the MH–unit in both directions upward and downward from the point of contact between the pier footing and the ground.

(c) In order to test a device, assembly or arrangement designed to achieve mechanical connection of a concrete block pier to an MH–unit and to the pier's footing, the testing shall comply with the methods and specifications provided in this section, and the mechanical connection shall endure the testing without failure.

(d) The device, assembly or arrangement of mechanical connection of concrete block supports shall be tested in both of the following configurations:

(1) eight (8) inches by eight (8) inches by sixteen (16) inches concrete blocks shall be stacked three (3) blocks high, without wooden spacers between the blocks, upon a pressure–treated wood footing two (2) inches by twelve (12) inches by thirty (30) inches in size.

(2) eight (8) inches by eight (8) inches by sixteen (16) inches concrete blocks shall be stacked three (3) blocks high, with one (1)–inch wooden spacers between the concrete blocks, upon a pressure–treated wood footing two (2) inches by twelve (12) by thirty (30) inches in size.

(3) The concrete blocks used in the configurations shall comply with the requirements of UBC Standard 21–4, "Hollow and Solid Load–Bearing Concrete Masonry Units," the California Building Code.

(e) A section of three (3)–inch flange by ten (10)–inch web steel "I" beam shall be used to simulate the point of attachment to the MH–unit.

(f) Two (2)–piece wooden wedges, driven together in opposition to one another and forming a thickness of not less than one (1) inch or more than two (2) inches between the topmost concrete block and the "I" beam, shall be used to simulate the typical surface bearing area between the concrete block pier support and the point of attachment to the MH–unit.

(g) The device, assembly or arrangement proposed as a means of mechanical connection for concrete block supports shall be installed in each of the configurations specified in subsection (d) and shall be subjected to the following procedures.

(1)(A) The footing shall be placed upon a level surface capable of supporting not less than one thousand pounds (1000) psf.

(B) The contact points between the wooden wedges and the "I" beam and between the concrete block and the footing shall be clearly marked.

(C) The "I" beam shall be raised vertically at least twelve (12) inches not less than five (5) times, without failure of the mechanical connection.

(D) Failure occurs if the points of contact of either the wooden wedges and the "I" beam or the concrete block and the footing has changed more than one (1) inch from the locations originally marked, as instructed in subsection (g)(1)(B).

(2)(A) The "I" beam shall be subjected to a constant vertical load of not less than one thousand (1000) psf at a point central to the concrete block pier configuration. The measurement between the level support surface and the bottom of the "I" beam shall be recorded.

(B) While maintaining the vertical load, the "I" beam shall be subjected to horizontal loads applied in both directions parallel to the "I" beam and in both directions perpendicular to the "I" beam. The mechanical connection shall withstand these forces without failure, until one or more of the concrete blocks fail to support the vertical load.

(C) Failure of one or more of the concrete blocks to support the vertical load occurs when the measurement recorded as directed in subsection (g)(2)(A) between the support surface and the bottom of the "I" beam, is decreased by one or more inches.

(D) Failure of the mechanical connection occurs if the points of contact of either the wooden wedges and the "I" beam or the concrete block and the footing have changed more than one (1) inch from the locations originally marked as instructed in subsection (g)(1)(B).

NOTE: Authority cited: Sections 18300, 18613 and 18613.4, Health and Safety Code. Reference: Section 18613.4, Health and Safety Code.

HISTORY

1. Renumbering of former section 1336.5 to new section 1334.2, including amendment of section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1334.4. Footings in Areas Subject to Ground Freezing.

(a) Support footings shall be placed below the frost line depth, determined by the local jurisdiction, in areas subject to ground freezing.

(b) The lowest point of the footing shall be below the frost line on firm undisturbed soil.

(c) Footings shall be precast or poured in place concrete not less than three and one–half (3 1/2) inches in thickness, or other approved materials listed for use below grade. The concrete shall have a minimum twenty–eight (28)–day compressive strength of not less than two thousand five hundred (2500) psi.

(d) No wood, or other non–masonry material not listed for use below grade, shall be below the surrounding grade and only pressure–treated wood and wood with natural resistance to decay and termites is permitted within six (6) inches of the soil.

(e) Holes for footings shall be open for inspection and backfilled prior to final inspection.

(f) Metal supports shall not be imbedded in soil or concrete.

(g) An additional inspection is required for verification of either footing depth or backfill, if not conducted at the time of the unit's installation.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Section 18613, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1334.5. Footings on Uneven Surfaces.

When footings span an uneven surface, one of the following methods shall be used to level the area of the footing:

(a) Placed on firm undisturbed soil or compacted fill pursuant to section 1334(d).

(b) Poured in place concrete at least three and one–half (3 1/2) inches thick extending to the edge of the footing.

(c) Pressure–treated wood meeting the requirements of section 1334.

(d) Compacted class 2 aggregate with the level top footing surface extending a minimum 12 (12) inches beyond the edge of the footing.

(e) Fills for uneven surfaces exceeding six (6) inches in depth shall be made with poured in place concrete or alternate engineered method approved by the enforcement agency. The concrete shall have a minimum twenty–eight (28)–day compressive strength of not less than two–thousand–five–hundred (2500) pounds–per–square–inch.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Sections 18300 and 18613, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1334.6. Vapor Barriers.

When the manufacturer's installation instructions require the installation of a vapor barrier on the surface of the ground, the barrier shall be installed under the footings and in accordance with the manufacturer's installation instructions.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Sections 18300 and 18613, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1335. Load Bearing Supports, Manufacturer's Installation Instructions.

MH–units manufactured on or after October 7, 1973, shall be installed in accordance with the approved manufacturer's installation instructions. Individual load bearing supports of a support system shall provide the support required by the manufacturer's instructions, including locations where there are concentrated loads. The footing areas shall be sized in accordance with section 1334 to support the loads shown in the manufacturer's installation instructions.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Section 18613, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 1336 to new section 1335 filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
2. Renumbering and amendment of former section 1336 to new section 1335 and amendment of NOTE refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–18–95 order transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
4. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1335.5. Load Bearing Support Systems. Without Manufacturer's Installation Instructions.

(a) MH–units manufactured prior to October 7, 1973, or MH–units for which the manufacturer's installation instructions are unobtainable, shall be supported in accordance with this subsection or on a foundation system in accordance with section 18551 of the Health and Safety Code. MH–units installed in areas exceeding a thirty (30)–pound roof live load, or to different requirements than prescribed in this section, shall have support systems designed and approved by an architect or engineer. The MH–unit shall be supported as follows:

(1) Main chassis beam supports spaced not more than six (6) feet apart longitudinally, as determined from table 1335.5–1,

(2) Ridge beam support systems as determined from table 1335.5–2, and

(3) wall supports under each end of a side wall opening that is forty–eight (48) inches or more in width, and under the perimeter walls at eight (8) foot intervals with footing sizes not less than two hundred seventy–five (275) square inches.

TABLE 1335.5–1
MH–unit Section Widths

Width of MH–unit Section	*Footing Area*
8 ft. wide	260 sq. in.
10 ft. wide	324 sq. in.
12 ft. wide	388 sq. in.
14 ft. wide	452 sq. in.
16 ft. wide	516 sq. in.

TABLE 1335.5–2

Span in feet Between Ridge Beam Locations	*Unit Section Width* 10 Foot	12 Foot	14 Foot	16 Foot
	Load in Pounds Per Square Foot			
Up to 5	1250	1500	1750	2000
6	1500	1800	2100	2400
7	1750	2100	2450	2800
8	2000	2400	2800	3200
9	2250	2700	3150	3600
10	2500	3000	3500	4000
11	2750	3300	3850	4400
12	3000	3600	4200	4800
13	3250	3900	4550	5200
14	3500	4200	4900	5600
15	3750	4500	5250	6000
16	4000	4800	5600	6400
17	4250	5100	5950	6800
18	4500	5400	6300	7200
19	4750	5700	6650	7600
20	5000	6000	7000	8000
21	5250	6300	7350	8400
22	5500	6600	7700	8800
23	5750	6900	8050	9200
24	6000	7200	8400	9600
25	6250	7500	8750	10000

(b) Multi–section homes manufactured prior to October 7, 1973 or multi–section homes for which the manufacturer's installation instructions are unobtainable, shall be interconnected as designed and approved by an architect or engineer or as follows:

(1) Floor connections shall be made with a three–eighths (3/8) inch diameter lag bolt or equivalent, of a length sufficient to ensure a tight connection as determined by the enforcement agency at the time of inspection. The lag bolts shall be installed twenty–four (24) inches on center. The lag bolts shall be staggered on alternating sides located where the multi–section floor lines meet.

(2) Roof connections shall be made with a three–eights (3/8) inch diameter lag bolt or equivalent, of length sufficient to ensure a tight connection as determined by the enforcement agency at the time of inspection. The lag bolts or equivalent shall be installed twenty–four (24) inches on center. The lag bolts shall be staggered on alternating sides where the multi–section rooflines meet.

(3) End wall connections shall be made with a number eight (8) screw or equivalent, of length sufficient to ensure a tight connection as determined by the enforcement agency at the time of inspection. The screws shall be installed eighteen (18) inches on center. The screws shall be staggered on alternating sides where the multi–section end walls meet.

NOTE: Authority cited: Section 18300 and 18613, Health and Safety Code. Reference: Section 18613, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 1342 to new section 1335.5 filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
2. Renumbering and amendment of former section 1342 to new section 1335.5 and amendment of NOTE refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–18–95 order transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
4. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1336. Wind Load Calculation.

Wind load is calculated as follows:

(a) From the exterior of the MH–unit, measure the total length of the exposed side wall in feet and in fractions of feet. Then measure the height of the exposed side wall in feet and fractions of feet, measuring from the point of connection of the side wall with the roof to the bottom of the sidewall, excluding any skirting installed at the site. Multiply the measurement of the length of the side wall by the measurement of the height of the side wall to obtain the exposed square footage of the side wall.

(b) From the exterior of the MH–unit, measure the total length of the exposed roof in feet and fractions of feet. Then measure the height of the exposed roof in feet and fractions of feet, measuring vertically from the point of connection with the side wall to the peak of the roof. Multiply the measurement of the length of the roof by the measurement of the height of the roof to obtain the exposed square footage of the roof. Divide the square footage by two, in order to compensate for the reduced wind load against a pitched roof.

(c) Add the square footage obtained in the calculation described in subsection (a) to the square footage obtained in the calculation described in subsection (b) to obtain the total square footage of the exterior side of the MH–unit exposed to wind load.

(d) Multiply the square footage obtained in the calculation described in subsection (c) by either the design wind load of the MH–unit or by fifteen (15) psf, whichever is greater, to obtain the wind load. The design wind load of the MH–unit is provided on the data plate permanently affixed to the MH–unit.

EXAMPLE: The side wall of the MH–unit measures sixty–two and one–half feet (62 1/2′) in length and ten feet (10′) in height. The roof of the MH–unit measures sixty–three and one–half feet (62 1/2′) in length and four and one–third feet (4 1/3′) in height. These measurements result in a calculated wind load of 11,437 pounds using the above–described method.

(a) 62.5 x 10 = 625 square feet
(b) 63.5 x 4.33 = 274.96/2 = 137.48 square feet
(c) 625 + 137.48 = 762.48 square feet
(d) 762.48 x 15 = 11,437.2 or a 11,437 pound wind load.

NOTE: Authority cited: Sections 18300, 18613 and 18613.4, Health and Safety Code. Reference: Section 18613.4, Health and Safety Code.

HISTORY

1. Renumbering of former section 1336 to section 1335 and new section filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
2. Renumbering of former section 1336 to section 1335 and new section refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–18–95 order transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
4. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1336.1. Listed Tiedown Assemblies.

Tiedown assemblies that are not part of an engineered tiedown system shall be listed as having been tested and found to be in compliance with the requirements of this section.

(a) A tiedown assembly consists of the ground anchor component and anchoring equipment. Anchoring equipment includes such components as:

(1) a tie, which connects the ground anchor to the MH–unit;

(2) a tensioning device, such as a turnbuckle or a yoke–type fastener; and

(3) fastening devices, such as an eye–bolt or a U–bolt–type cable clamp.

(b) A tiedown assembly shall be designed to prevent self–disconnection. Open hook ends shall not be used in any part of the tiedown assembly.

(c) Flat steel strapping used as a component of a tiedown assembly shall comply with the specifications and testing methods of ASTM Stan-

dard D3953–91, "Standard Specification for Strapping, Flat Steel and Seals," which is hereby incorporated by reference.

(d) A ground anchor component designed for the connection of multiple ties and the means for the attachment of the ties shall be capable of resisting, without failure, the combined working load of the maximum number of ties that can be attached to the anchor.

(e) A tiedown assembly shall be tested by applying an increasing test load to the point of failure in order to determine the assembly's capacity for resistance. A working load for the tiedown assembly shall be established from the test results, which shall be two–thirds (2/3) of the amount of resistance the tiedown assembly endured without failure.

(f) The tiedown assembly shall be tested while the ground anchor is installed as recommended by the manufacturer.

(1) The type of soil in which the ground anchor is installed for the application of a test load shall correspond to one of the classes of materials shown in California Building Code, Table 18–1–A. The working load of the listed tiedown assembly used in the calculations shall be for type 5 soil, also known as one–thousand (1,000) pound soil, consisting of clay, sandy clay, silty clay and clayey silt, as classified in the California Building Code, Table 18–1–A.

(2) The test load shall be applied from the direction of the tie.

(g) Failure of the ground anchor component consists of the following occurrences:

(1) The application of the test load results in an uplift of the ground anchor greater than two (2) inches or a side deflection of the ground anchor greater than three (3) inches; or

(2) The ground anchor, including the means of attachment of the tie, breaks, separates, or is deformed in a manner that threatens the integrity of the tiedown assembly. A deformity that threatens the integrity of the tiedown includes one that would allow the tie to separate from the ground anchor or that would cause the tie to wear and break.

(h) Failure of a component of the anchoring equipment consists of the following occurrences:

(1) The tie stretches to a length more than two (2) percent greater than the length of the tie prior to the application of the test load; or

(2) A component of the anchoring equipment or the attachment point to the MH–unit yields or fractures upon application of the test load; or

(3) A component of the anchoring equipment or the attachment point of the MH–unit is deformed by the working load in a manner that is a threat to the integrity of the tiedown assembly.

(i) The listing for the tiedown assembly shall include the following information:

(1) The model identification number of the tiedown assembly;

(2) The working load of the listed tiedown assembly used in the calculations, shall be calculated for type 5 soil, also known as one–thousand (1,000)–psf soil, consisting of clay, sandy clay, silty clay and clayey silt, as classified in the California Building Code, Table 18–1–A; and

(3) Installation instructions for the tiedown assembly, including the manner in which the ground anchor component must be inserted into the ground in order to maintain the working load for which the tiedown assembly is rated. Such instructions include the angle at which the anchor must be inserted and the angle at which the tie must be attached.

(j) The ground anchor component of a listed tiedown assembly shall contain a permanent label that provides the manufacturer's name and the listed model identification number of the tiedown assembly. The label shall be located on the anchor in a place that it is visible after installation, and the information shall be provided on the label in a manner that is easy to read.

NOTE: Authority cited: Sections 18300, 18613 and 18613.4, Health and Safety Code. Reference: Section 18613.4, Health and Safety Code.

HISTORY

1. New section filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–18–95 order transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
4. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1336.2. Installation Requirements for a Tiedown System Consisting of Listed Tiedown Assemblies.

The installation of a tiedown system consisting of listed tiedown assemblies shall comply with the requirements of this section.

(a) Unless otherwise specified in the MH–unit manufacturer's installation instructions, the number of tiedown assemblies that must be installed for each longitudinal side of an MH–unit shall be determined by dividing the wind load calculated as required in section 1336 by the working load of the listed tiedown assembly chosen for use.

(1) The quotient shall be rounded up to equal the number of listed tiedown assemblies required for each longitudinal side.

(2) The working load of the listed tiedown assembly used in the calculations shall be for type 5 soil, also known as one thousand (1,000)–pound soil, consisting of clay, sandy clay, silty clay and clayey silt, as classified in the California Building Code, Table 18–1–A.

(b) The number of tiedown assemblies required pursuant to subsection (a) may be reduced to no less than two (2) under the following circumstances:

(1) If the MH–unit's installation instructions provide for a reduction in the number of tiedown assemblies and for the subsequent, concentrated amount of resistance at specific points on the MH–unit; and

(2) if engineered data is submitted to and approved by the enforcement agency which substantiates a different class of materials constituting the soil into which the anchor is to be inserted, as provided in the California Building Code, Table 18–1–A.

(c) No less than two (2) tiedown assemblies shall be installed at each end of each transportable section of the MH–unit. The working load of the tiedown assemblies installed at each end of an MH–unit shall be the same as the working load of the tiedown assemblies installed along each of the longitudinal sides of the MH–unit.

(d) It is the responsibility of the contractor/installer to determine the location of all underground utilities within the MH–unit's lot, such as gas, water, sewer, electrical or communications systems, and to avoid the location of all underground utilities when choosing the specific location for the insertion of each ground anchor. The location of each anchor shall not violate the clearance requirements from underground utilities adopted by the Public Utilities Commission in General Order 128, pursuant to section 768 of the Public Utilities Code.

(e) If the MH–unit manufacturer's installation instructions are available and provide for the installation of a tiedown system, listed tiedown assemblies shall be installed as follows:

(1) The number of tiedown assemblies and the manner of attachment and location of the attachment of the tiedown assemblies to the MH–unit shall be as required by the installation instructions provided by the manufacturer of the MH–unit and by subsection (c); and

(2) The listed tiedown assemblies shall be installed as required by their listing and by subsections (a)(2), (h) and (j).

(f) If the installation instructions provided by the MH–unit's manufacturer do not provide for the installation of a tiedown system or if the MH–unit manufacturer's installation instructions are not available, all tiedown assemblies shall be installed as required by their listing and by this section.

(g) The required tiedown assemblies shall be spaced as evenly as practicable along the length of each side and end of the MH–unit, with no more than two (2) feet of open–end spacing at any end of the MH–unit, measuring from the point of the attachment of the tie to the MH–unit.

(h) No portion of the tiedown assembly shall extend above the ground beyond the vertical plane of the side or end wall of the MH–unit.

(i) A tie shall be wrapped around a main structural frame member and shall not attach to a steel outrigger beam that fastens to and intersects a main structural frame member.

(j) After the tie is connected with the MH–unit and to the ground anchor, the tie shall be drawn tight to eliminate all slack.

NOTE: Authority cited: Sections 18300, 18613 and 18613.4, Health and Safety Code. Reference: Section 18613.4, Health and Safety Code.

HISTORY

1. New section filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–18–95 order including amendment of subsections (b)(2) and (d) transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
4. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1336.3. Engineered Tiedown System.

An engineered tiedown system is a system designed by an engineer or architect that complies with the requirements of this section and Health and Safety Code section 18613.4.

(a) An engineered tiedown system shall allow an MH–unit to resist wind loads of fifteen (15) pounds psf or the design wind load of the MH–unit, whichever is greater.

(1) The engineered tiedown system shall provide the MH–unit with the ability to resist wind loads against either side of the MH–unit and against either end of the MH–unit.

(2) The engineered tiedown system shall maintain solid contact with the ground while providing the MH–unit with the required resistance.

(b) An engineered tiedown system shall be designed by an engineer or architect, who includes within the plans and specifications, a statement that the system meets the requirements of subsection (a).

(c) The plans and specifications for an engineered tiedown system, including installation instructions, shall contain an original engineer's or architect's stamp and signature or shall have a standard plan approval issued by the department.

NOTE: Authority cited: Sections 18300, 18613 and 18613.4, Health and Safety Code. Reference: Section 18613.4, Health and Safety Code.

HISTORY

1. New section filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–18–95 order including amendment of first paragraph and subsection (a)(2) transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
4. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1336.4. Mechanical Connection of Concrete Piers or Steel Piers.

NOTE: Authority cited: Sections 18300(a), 18613(e) and 18613.4, Health and Safety Code. Reference: Section 18613.4, Health and Safety Code.

HISTORY

1. New section filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–18–95 order transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
4. Renumbering of former section 1336.4 to new section 1334.1 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1336.5. Mechanical Connection of Concrete Block Piers.

NOTE: Authority cited: Sections 18300(a), 18613(e) and 18613.4, Health and Safety Code. Reference: Section 18613.4, Health and Safety Code.

HISTORY

1. New section filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–18–95 order transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
4. Renumbering of former section 1336.5 to new section 1334.2 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1337. Support Inspection.

At the time of inspection, the installation of the MH–unit on its support system shall be complete and the area under the MH–unit shall be accessible for inspection.

(a) Skirting shall not be installed until all underfloor installations have been approved by the enforcement agency.

(b) Masonry walls shall not be installed until all underfloor installations have been approved by the enforcement agency, unless the installation of the masonry wall is required to provide perimeter support to the MH–unit.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18613, Health and Safety Code.

HISTORY

1. Renumbering of former section 1350 to new section 1337, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1338. Roof Live Load.

(a) Except as provided in section 1338.1 of this article, every MH–unit installed shall have the capacity to resist the applicable minimum roof live load of the region in which it is installed as set forth in Table 1338–1 or as is further provided by this section. Table 1338–1 shall apply except where either greater or lesser snow loads have been established through survey of the region, and approved by the department. Except as described in Section 1338.1, below, at elevations above 4,000 ft., snow loads established for residential buildings by local ordinance shall apply.

(1) Region I includes the following counties: Alameda, Butte, Colusa, Contra Costa, Del Norte, Glenn, Humboldt, Imperial, Kings, Lake, Los Angeles, Marin, Mendocino, Merced, Monterey, Napa, Orange, Sacramento, San Benito, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Ventura, Yolo.

(2) Region II includes the following counties: Amador, Fresno, Inyo, Kern, Modoc, Riverside, San Bernardino, Siskiyou.

(3) Region III includes the following counties: Alpine, Calaveras, El Dorado, Lassen, Madera, Mariposa, Mono, Nevada, Placer, Plumas, Shasta, Sierra, Tehama, Trinity, Tulare, Tuolumne, Yuba.

(b) When an application is submitted for a permit to install an MH–unit manufactured prior to October 7, 1973, or an MH–unit with a designed roof live load less than that specified in Table 1338–1 and it is known the MH–unit will be subjected to snow loads, the plans and specifications shall include a method of protecting the MH–unit from snow loads that is acceptable to the enforcement agency.

When approved by the enforcement agency, a ramada may be used to protect an MH–unit which does not have the capacity to resist the minimum roof live load for the region in which it is to be installed. The ramada shall be designed to resist the minimum roof loads for the region in which it is constructed and shall be constructed pursuant to the provisions of section 1486.

(c) Parks that have received approval for a snow roof load maintenance program prior to July 7, 2004, must continue the program on existing

installations. However, MH–units located in parks at or below 4,000 feet in elevation installed after July 7, 2004, must have the capacity to resist the applicable minimum roof live loads of the region in which it is installed, as set forth in Table 1338–1.

(d) This section does not apply to MH–units installed prior to September 30, 1975.

(e) The park owner or operator shall maintain the snow roof load maintenance program, as long as units in the park do not meet the minimum roof loads for the area.

TABLE 1338–1
General Roof Live Load Requirements for MH–units

Region I		*Region II*		*Region III*	
Elevation	*Roof Live Load*	*Elevation*	*Roof Live Load*	*Elevation*	*Roof Live Load*
All Elevations	20 psf	0–3000 ft.	20 psf	0–2000 ft.	20 psf
		3001–3500 ft.	30 psf	2001–3000 ft.	30 psf
		3501–5000 ft.	60 psf	3001–4000 ft.	60 psf

NOTE: Authority cited: Sections 18300, 18605 and 18613, Health and Safety Code. Reference: Sections 18552, 18605 and 18613, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
3. Change without regulatory effect amending subsections (a) and (c) and NOTE filed 2–2–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 5).
4. Amendment of subsections (a) and (c), Table 1338–1 and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1338.1. Roof Live Loads for Mobilehome Parks Located Above 4000 Feet in Elevation.

(a) Notwithstanding the provisions of Section 1338, if an MH–unit that is proposed to be installed within a mobilehome park located above 4,000 feet in elevation does not have the capacity to resist the minimum snow loads as established for residential buildings by local ordinance, the MH–unit may only be installed in a mobilehome park if all of the following conditions apply:

(1) The park has and is operating a snow roof load maintenance program approved by the enforcement agency;

(2) the MH–unit has the capacity to resist a roof live load of sixty (60) pounds per square foot or greater;

(3) the installation complies with all other applicable requirements of this chapter;

(4) the installation is approved by the enforcement agency; and

(5) the enforcement agency's approval of the snow roof load maintenance program is shown on the mobilehome park's permit to operate.

(b) The operator of a mobilehome park located above 4,000 feet in elevation may request and obtain approval from the enforcement agency for a snow roof load maintenance program. The request for an approval shall include, but not be limited to, the following information:

(1) The type of maintenance to be used to control snow accumulation;

(2) the capacity and capability of personnel and equipment proposed to satisfactorily perform the snow roof load maintenance program; and

(3) an application for an amended permit to operate in accordance with section 1014 of this chapter.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Sections 18552, 18605 and 18613, Health and Safety Code.

HISTORY

1. Change without regulatory effect adopting new section filed 2–2–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 5).
2. Change without regulatory effect amending section filed 12–7–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 49).
3. Editorial correction removing subsection (d) (Register 2006, No. 19).
4. Amendment of section heading and subsections (a) and (b) filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1338.5. School Impact Fees.

(a) The first installation of an MH–unit on a lot in a park or an addition of a lot to an existing park where the permit to construct the lot was issued after September 1, 1986, may be subject to the assessment of a school impact fee when school impact fees are imposed by local school districts. The requirements and procedures governing the impact fees are set forth in Government Code sections 65995 and 65996 and Education Code sections 17620 through 17625.

(b) When the department is the enforcement agency, form HCD MP 502 must be submitted to the department prior to inspection of an installation and issuance of a Manufactured Home or Mobilehome Installation Acceptance or Certificate of Occupancy. The certification shall be signed by an authorized representative of the school district or districts and presented to the department prior to the issuance of an installation acceptance certificate or certificate of occupancy.

NOTE: Authority cited: Section 18613, Health and Safety Code. Reference: Section 65995, Government Code; and Sections 17620, 17621, 17622, 17623, 17624 and 17625, Education Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1339. Compliance with Local Floodplain Management Ordinances.

When the department is the enforcement agency, the applicant for a permit to install or reinstall an MH–unit shall submit to the department, along with the application for permit to construct, a completed Floodplain Ordinance Compliance Certification For Manufactured Home/Mobilehome Installations, signed by an authorized representative of the local floodplain management agency.

EXCEPTION: When the department has been officially notified by the local floodplain management agency that a specific park is not in a floodplain, a new form is not required.

NOTE: Authority cited: Section 18613, Health and Safety Code. Reference: Section 18300, Health and Safety Code; Sections 60.3 and 60.26, 44 CFR Parts 59 and 60; and and Executive Order B–39–77.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1340. Horizontal Wind Loads.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18300, 18605, 18613, Health and Safety Code.

HISTORY

1. Repealer filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
2. Repealer refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–18–95 order transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).

§ 1342. Other Mobilehomes.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18613, Health and Safety Code.

HISTORY

1. Renumbering of former section 1342 to section 1335.5 filed 9–8–94 as an emergency; operative 9–19–94 (Register 94, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–17–95 or emergency language will be repealed by operation of law on the following day.
2. Renumbering of former section 1342 to section 1335.5 refiled 1–18–95 as an emergency; operative 1–17–95 (Register 95, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–17–95 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 95, No. 19).
4. Certificate of Compliance as to 1–18–95 order transmitted to OAL 3–31–95 and filed 5–12–95 (Register 95, No. 19).
5. Editorial correction of section heading (Register 2005, No. 33).

§ 1344. Clearances.

A minimum clearance of eighteen (18) inches shall be maintained between the underside of the floor joists, and grade level of the lot and a minimum clearance of twelve (12) inches shall be maintained between

the main chassis beams of the MH–unit and grade level of the lot. A minimum clearance of twelve (12) inches shall be maintained under all horizontal structural members of a support structure.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18605 and 18613, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1346. Skirting Design and Construction.

(a) Where the space beneath an MH–unit is enclosed, there shall be provided a removable access panel opening a minimum of eighteen (18) inches by twenty–four (24) inches unobstructed by pipes, ducts, or other equipment that may impede access. The access panel shall not be fastened by any means requiring the use of a special tool or device to remove the panel.

(b) Cross ventilation shall be provided by openings having a net area of not less than one and one–half (1 1/2) square feet for each twenty–five (25) linear feet of the MH–unit and including all enclosed unventilated structures such as porches. The openings shall be provided on at least the two (2) opposite sides along the greatest length of the unit and shall be installed as close to all the corners as practicable.

(c) When wood siding or equivalent home siding products are used as underfloor enclosure material, the installation shall comply with the siding manufacturer installation instructions. Where siding manufacturer installation instructions are not available, the installation shall conform to the provisions of the California Building Code. All wood products used in underfloor enclosure construction located closer than six (6) inches to earth shall be treated wood or wood of natural resistance to decay. Where located on concrete slabs placed on earth, wood shall be treated wood or wood of natural resistance to decay.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18605 and 18613, Health and Safety Code.

HISTORY

1. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1348. Leveling.

After the installation is complete, the chassis and floor members of the MH–unit shall be level.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Section 18613, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1350. Support Inspection.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18613, Health and Safety Code.

HISTORY

1. Renumbering of former section 1350 to new section 1337 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1352. Electrical Feeder Assembly.

(a) An MH–unit shall be connected to the lot service equipment by one (1) of the following means:

(1) Listed power supply cord, approved for mobilehome use.

(2) Feeder assembly.

(b) An MH–unit with a calculated electrical load of 40–amperes or 50–amperes may be connected to the lot service equipment with a listed power supply cord.

(c) The power supply cord shall bear the following markings:

"For mobilehome use – 40 amperes" or "For mobilehome use – 50 amperes" as appropriate.

EXCEPTION: An MH–unit, equipped with an existing power supply cord not listed for MH–units may have its use continued, provided:

(1) The power supply cord used shall be listed: Type SO, ST, or STO.

(2) The power supply cord shall not be spliced.

(3) The male attachment plug shall conform to provisions of Article 550 or 551 of the California Electrical Code.

(d) An MH–unit, with a calculated load in excess of 50–amperes, shall be connected to the lot service equipment by one (1) of the following:

(1) An MH–unit, equipped with an overhead service drop, shall be connected by four (4) continuous, insulated conductors.

(2) An MH–unit equipped for an underfloor feeder assembly shall be connected to the lot service equipment by means of a feeder assembly consisting of four (4) continuous, insulated, color–coded, feeder conductors suitable for wet locations, installed in an approved conduit. Connection at the MH–unit shall be a flexible connection of at least thirty–six (36) inches in length.

(3) Conductors for an overhead installation or conductors for an MH–unit feeder assembly used for underfloor installation shall be sized as follows:

(A) Conductors shall be sized in accordance with the requirements of the MH–unit manufacturer's approved installation instructions.

(B) If the manufacturer's installation instructions are not available, the conductors shall be sized for the electrical load shown on the MH–unit electrical label.

(C) In the absence of an electrical label on the MH–unit or the MH–unit manufacturer's approved installation instructions, the conductors shall be sized in accordance with the calculated load as determined by the provisions of the California Electrical Code, Articles 1, 2, and 3.

(e) The feeder assembly shall be installed above ground to be kept from direct contact with the earth.

(f) Only one (1) power supply connection to an MH–unit for each dwelling unit shall be permitted. Where electrical service equipment is provided as a part of an MH–unit, the power supply connection shall be made in accordance with applicable provisions of the California Electrical Code, Articles 1, 2, and 3.

(g) Power supply cords shall not be buried or encased in concrete.

(h) Feeder conductors shall be run in an approved rigid raceway if buried or encased in concrete.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Sections 18550 and 18613, Health and Safety Code.

HISTORY

1. Relettering and amendment of former subsections (g)–(i) to subsections (f)–(h) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
3. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
4. Editorial correction of HISTORY 3 (Register 2005, No. 33).

§ 1354. MH–Unit Gas Connector.

(a) Each MH–unit shall be connected to the lot outlet by an approved flexible gas connector, listed for its intended use, not more than six (6) feet in length and of adequate size to supply the MH–unit gas appliance demand, as evidenced by the label on the MH–unit. In the absence of a label, the MH–unit demand shall be determined by the California Plumbing Code, Chapter 12.

(b) When the MH–unit gas system needs to be extended, the extension must comply with National Manufactured Housing Construction and Safety Standards. Verification of compliance will be completed at the time of the installation inspection.

(c) Only one (1) gas supply connection to an MH–unit for each dwelling unit shall be permitted.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Sections 18550 and 18613, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) and new subsection (d) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1356. MH–Unit Water Connector.

An MH–unit shall be connected to the lot water service outlet by a flexible connector approved for potable water, or at least eighteen (18) inches of soft copper tubing, not less than one–half (1/2) inch interior diameter.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18613 and and 18630, Health and Safety Code.

HISTORY

1. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1358. Drain, Unit.

(a) An MH–unit shall be connected to the lot drain inlet by means of a drain connector consisting of approved pipe not less than schedule 40, with listed and approved fittings and connectors, and shall not be less in size than the MH–unit drain outlet. A listed and approved flexible connector shall be provided at the lot drain inlet end of the pipe.

(b) Drain connectors and fittings for recreational vehicles shall be listed and approved for drain and waste.

(c) Recreational vehicles located in a park for more than three (3) months, or units with plumbing that are not self contained, shall have a drain connector complying with subsection (a).

(d) All drain connectors and fittings shall be maintained with a grade not less than one–eighth (1/8) inch per foot. A drain connector shall be gas–tight and no longer than necessary to make the connection between the unit's drain outlet and the drain inlet on the lot.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18613 and 18630, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1360. Air–Conditioning Installation.

(a) When an MH–unit has been previously equipped with a portable air–conditioning appliance energized from the unit and is installed in a new location, the air–conditioning equipment may be energized in the same manner as originally installed, provided that it does not create a hazard.

(b) When central air–conditioning equipment is to be installed in an MH–unit, a permit to alter the MH–unit must be obtained from the Department and shall be energized from the MH–unit.

(c) If the MH–unit does not have the additional capacity to supply the air–conditioning equipment, it may be energized from the lot electrical service, provided the park electrical system has the capacity to supply the additional air–conditioning load and a permit to construct is obtained for the alteration of the lot electrical service.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18613, 18670 and 18690, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1362. Installation Test.

(a) The potable water distribution system of the MH–unit and the supply connection shall show no evidence of leakage under normal operating pressures. If water at normal operating pressure is not available, the water distribution system shall be tested by a fifty (50) psi air pressure test for a period of not less than fifteen (15) minutes without leaking.

(b) The MH–unit drainage piping system shall be connected to the lot drain inlet, and tested by allowing water to flow into all fixtures, and receptors, including the clothes washer standpipe, for a period of three (3) minutes. If water under pressure is not available, the drainage piping system shall be tested by letting at least three (3) gallons of water into each fixture and receptor. There shall be no visible evidence of leaks.

(c) The MH–unit fuel gas piping system shall be tested before it is connected to the lot gas outlet. The gas piping system shall be subjected to a pressure test with all appliance shut–off valves, except those ahead of fuel gas cooking appliances, in the open position. Appliance shut–off valves ahead of fuel gas cooking appliances may be closed.

(1) The test shall consist of air pressure at not less than ten (10) inches nor more than a maximum of fourteen (14) inches water column. (Six (6) ounces to a maximum eight (8) ounces). The system shall be isolated from the air pressure source and maintain this pressure for not less than two (2) minutes without perceptible leakage. Upon satisfactory completion of the test, if the appliance valves ahead of fuel gas cooking appliances have been shut off, they shall be opened and the gas cooking appliance connectors tested with soapy water or bubble solution while under the pressure remaining in the piping system. Solutions used for testing for leakage shall not contain corrosive chemicals. Pressures shall be measured with either a manometer, slope gauge, or gauge calibrated in either water inches or psi with increments of either one–tenth (1/10) inch or one–tenth (1/10) ounce, as applicable.

NOTE: The fuel–gas piping system shall not be over–pressurized. Pressurization beyond the maximum specified may result in damage to valves, regulators, appliances, etc.

(2) Gas appliance vents shall be inspected to insure that they have not been dislodged in transit and are securely connected to the appliance.

(d) The electrical wiring and power supply feeder assembly of the MH–unit shall be tested for continuity and grounding. The electrical wiring system shall not be energized during the test. An MH–unit equipped with a power supply cord shall not be connected to the lot service equipment. An MH–unit equipped with a feeder assembly shall have the flexible metal conduit of the feeder assembly connected to the lot service equipment; however, the supply conductors, including the neutral conductor, shall not be connected.

(1) The continuity test shall be made with all interior branch circuit switches or circuit breakers and all switches controlling individual outlets, fixtures and appliances in the "on" position. The test shall be made by connecting one lead of the test instrument to the MH–unit grounding conductor at the point of supply to the feeder assembly, and applying the other lead to each of the supply conductors, including the neutral conductor. There shall be no evidence of any connection between any of the supply conductors and the grounding conductor. In addition, all noncurrent–carrying metal parts of electrical equipment, including fixtures and appliances, shall be tested to determine continuity between such equipment and the equipment grounding conductor.

(2) Upon completion of the continuity test, the power supply cord or feeder assembly shall be connected at the lot service equipment. A further continuity test shall then be made between the grounding electrode and the chassis of the MH–unit.

(3) If the final electrical connection has been approved by the enforcement agency and electrical energy is available at the lot equipment, a polarity test shall be conducted with the MH–unit energized.

(e) When an MH–unit consists of two (2) or more sections, all utility connections from one section to another shall be visually inspected and included in the tests.

(f) Upon approval of the installation and satisfactory completion of the gas and electrical tests, the lot equipment shall be approved for service connection.

(g) When installed, fire sprinkler systems shall be hydrostatically tested in accordance with Title 25, Chapter 3, Section 4320 reprinted below:

(a) A fire sprinkler system installed during the manufacture of the manufactured home or multi–unit manufactured housing with two dwelling units must be hydrostatically tested both at the manufacturing facility and at the home's installation site.

(1) The hydrostatic test performed at the manufacturing facility:

A. must be conducted on the completely assembled system within any one transportable section; and

B. must subject the system to 100 pounds per square inch (psi) hydrostatic pressure for not less than 2 hours without any loss of pressure or leakage of water. Testing shall be performed in accordance with the applicable product standards.

(2) The person responsible for installing the manufactured home or multi–unit manufactured housing with two dwelling units must hydro-

statically test the system again at the home's installation site with the water supply available at the site for at least one hour without any evidence of leakage.

A. The testing must be performed at a minimum of 50 psi; not to exceed 100 psi.

B. A representative of the enforcement agency must witness the test at the installation site during the same visit to the installation site to inspect the installation of the home or dwelling unit.

(b) A fire sprinkler system installed after the manufactured home or multi-unit manufactured housing with two dwelling units is shipped from the manufacturing facility must be hydrostatically tested at the home's installation site.

(1) The person who installed the fire sprinkler system is responsible for performing the test.

(2) A representative of the enforcement agency must witness the test.

(3) The installer must conduct the test on the completely assembled system.

(4) The installer must conduct the test with the water supply available at the home's site for a period of two hours without any evidence of leakage. The testing must be performed at a minimum of 50 psi; not to exceed 100 psi.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Section 18613, Health and Safety Code.

HISTORY

1. Amendment of subsections (b) and (c) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1364. Approval Tags.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18613, 18670, 18690, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1366. Statement of Mobilehome Installation Acceptance or Certificate of Occupancy.

(a) A "Mobilehome Installation Acceptance" or "Certificate of Occupancy" shall not be issued until it is determined that the MH–unit installation complies with the provisions of this chapter. The enforcement agency shall provide copies of the statement of MH–unit installation acceptance or certificate of occupancy for the MH–unit to the installer or other person holding the permit to install and the buyer or registered owner or their representative. The M–H unit installation acceptance shall be provided for MH–units installed pursuant to section 18551(b) or 18613 of the Health and Safety Code. The certificate of occupancy shall be provided for MH–unit installed on foundation systems pursuant to section 18551(a) of the Health and Safety Code.

(b) If the MH–unit is moved or relocated, the statement of MH–unit installation acceptance or certificate of occupancy, shall become invalid.

NOTE: Authority cited: Sections 18300 and 18613, Health and Safety Code. Reference: Sections 18551 and 18613, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1368. Requirements for Exit Doorways.

At the time of the MH–unit installation inspection, all exterior doorways of an MH–unit shall be provided with a porch, ramp and/or stairway conforming with the provisions of article 9 of this chapter.

NOTE: Authority cited: Sections 18300 and 18552, Health and Safety Code. Reference: Sections 18552 and 18613, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 7.5. MH–Unit Earthquake–Resistant Bracing Systems (ERBS)

§ 1370. Application and Scope.

(a) The provisions of this article relating to the certification of MH–unit earthquake resistant bracing systems are applicable to all MH–unit earthquake resistant bracing systems sold or offered for sale within the State of California.

(b) The provisions of this article relating to the installation or reinstallation of an earthquake resistant bracing system required to be certified pursuant to this article, shall apply to a system installed or reinstalled on or under an MH–unit.

(c) The requirements of this article shall not apply to an MH–unit installed on a foundation system pursuant to section 18551 of the Health and Safety Code.

(d) Nothing in this article shall be construed as requiring the installation of earthquake resistant bracing systems on or under an MH–unit sited either before or after the effective date of this article.

NOTE: Authority cited: Sections 18613.5 and 18613.7, Health and Safety Code. Reference: Sections 17003.5, 18300 and 18613.5, Health and Safety Code.

HISTORY

1. New article 7.5 (sections 1370–1376, not consecutive) filed 8–22–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Amendment of subsection (a), new subsections (b) and (e), and relettering of former subsections (b) and (c) to subsections (c) and (d) filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
3. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Reinstatement of section as it existed prior to emergency amendment filed 3–12–90 by operation of Government Code section 11346.1(f) (Register 91, No. 2).
5. Amendment of section filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11–26–90 order transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
7. Amendment of article heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1370.2. Certification Required.

(a) It shall be unlawful for any person, firm, or business to sell or offer for sale within this state, any earthquake resistant bracing system unless the system is certified by the department as meeting the requirements of this article.

(b) It shall be unlawful for any listing or testing agency to list as "approved" or authorize the use of its labels for any MH–unit earthquake resistant bracing system until such system is certified by the department.

NOTE: Authority cited: Sections 18613.5 and 18613.7, Health and Safety Code. Reference: Sections 17003.5, 18300 and 18613.5, Health and Safety Code.

HISTORY

1. Amendment of subsection (a), and repealer of subsections (c) and (d) filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Reinstatement of section as it existed prior to emergency amendment filed 3–12–90 by operation of Government Code section 11346.1(f) (Register 91, No. 2).
4. Amendment of section filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL

by 3–26–91 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 11–26–90 order transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
6. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1370.4. Enforcement and Penalties.

(a) The department shall administer and enforce all the provisions of this article. However, the penalties provided by this article shall not prevent an aggrieved party from pursuing other remedies under any provision of law.

(b) In addition to the penalties provided for in section 18700 of the Health and Safety Code, violation of any of the provisions of this article, or the sale or offering for sale of a certified earthquake resistant bracing system which does not conform to the certified plan for that design or system model, shall be cause for cancellation of certification by the department.

NOTE: Authority cited: Section 18613.5, Health and Safety Code. Reference: Sections 17003.5, 18300, 18613.5 and 18700, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 4–24–91; operative 4–24–91 (Register 91, No. 24).
2. Editorial correction of HISTORY 1 (Register 96, No. 37).
3. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1370.6. Definitions.

NOTE: Authority cited: Section 18613.5, Health and Safety Code. Reference: Section 18613.5, Health and Safety Code.

HISTORY

1. Amendment filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Reinstatement of section as it existed prior to emergency amendment filed 3–12–90 by operation of Government Code section 11346.1(f) (Register 91, No. 2).
4. Amendment of section filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–26–90 order transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
6. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1371. Construction and Design Requirements.

(a) ERBS shall be designed and constructed to resist seismic forces determined in accordance with the provisions of Section 2312, Chapter 23, Uniform Building Code, 1982 Edition.

(b) ERBS shall be designed to limit downward vertical movement of a mobilehome or manufactured home to a maximum of two (2) inches.

(c) The ERBS manufacturer shall assure that each system sold or offered for sale bears a permanently affixed label. The label shall have a useful life of at least ten (10) years. The label shall provide, in a legible manner, evidence of approval from a listing or testing agency and the ERBS manufacturer's model name or number.

(d) If the ERBS consists of more than one bracing device, each individual device shall be labeled as required in subsection (c). For purposes of this article, a device may consist of one or more parts which, when assembled, forms an individual brace within an ERBS.

NOTE: Authority cited: Section 18613.5, Health and Safety Code. Reference: Sections 17003.5, 18300 and 18613.5, Health and Safety Code.

HISTORY

1. Amendment of subsection (c) and new subsection (d) filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Reinstatement of section as it existed prior to emergency amendment filed 3–12–90 by operation of Government Code section 11346.1(f) (Register 91, No. 2).
4. Amendment of subsection (c) and a new subsection (d) filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORY 4. (Register 91, No. 24).
6. Certificate of Compliance as to 11–26–91 order including amendment of subsections (c) and (d) transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
7. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1372. Certification Application.

(a) The person, firm or business applying for certification for an ERBS, shall make application to the department on an Application for Certification of Manufactured Home or Mobilehome Earthquake Resistant Bracing System. This form is provided by the department.

(b) The person, firm or business shall also submit evidence that the system has been submitted to and approved by a department–approved listing or testing agency.

(c) Upon receipt of a complete application, the department shall review the application to assure that the proposed system will comply with the construction and design requirements set forth in section 1371 and the system has been approved by a department–approved testing or listing agency.

If the department finds that the above requirements have been met and the balance of any certification review fees due pursuant to section 1025 have been paid, the department shall certify the ERBS plans. An approved copy of the plans shall be returned to the manufacturer and a copy shall be retained at the place of manufacture.

NOTE: Authority cited: Sections 18502.5 and 18613.5, Health and Safety Code. Reference: Sections 18300, 18502.5 and 18613.5, Health and Safety Code.

HISTORY

1. Amendment of subsection (a), new subsection (b), renumbering of subsection (a)(3) to subsection (c) and old subsection (b) to subsection (d) filed 4–24–91; operative 4–24–91 (Register 91, No. 24).
2. Change without regulatory effect amending subsections (a) and (b) and form filed 2–5–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 12).
3. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1372.2. Plan Requirements.

(a) Plans submitted to the department for certification shall be on substantial paper or cloth, not less than eight and one–half (8 1/2) by eleven (11) inches or multiples thereof but not exceeding twenty–five and one–half (25 1/2) by thirty–six (36) inches.

(b) A plan shall include all pertinent items necessary for the design, construction, and installation of the system, such as details of connections, dimensions, footings, general notes and the method of installation.

(c) A plan shall depict only one design or model of ERBS.

(d) A plan shall include the ERBS manufacturer's installation instructions which, when approved, may be copied for the purposes specified in sections 1374.6 and 1374.7.

(e) Each page of the plan and each page of the ERBS manufacturer's installation instructions shall provide a blank space not less than three (3) inches by three (3) inches for the department's stamp of approval.

(f) Each page of the plan and each page of the ERBS manufacturer's installation instructions shall be identified by the ERBS manufacturer's name and the manufacturer's model name or number of the system to be certified.

(g) The cover sheet of the ERBS manufacturer's installation instructions shall show the total number of pages which constitute the instructions.

NOTE: Authority cited: Sections 18613.5 and 18613.7, Health and Safety Code. Reference: Sections 18300 and 18613.5, Health and Safety Code.

HISTORY

1. Amendment of subsections (d), (e) and (f), and new subsection (g) filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Reinstatement of section as it existed prior to emergency amendment filed 3–12–90 by operation of Government Code section 11346.1(f) (Register 91, No. 2).
4. Amendment of subsections (d), (e) and (f) and new subsection (g) filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORY 4. (Register 91, No. 24).
6. Certificate of Compliance as to 11–26–90 order transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
7. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1372.4. Certification Application Review and Notice of Department Decision.

(a) Within ten (10) working days of the receipt of an application and plans, the department shall provide the applicant with written notice whether the application is complete pursuant to section 1372 and acceptable for filing. If the application is not complete, the notice shall specify the information and/or documentation necessary to complete the application. If the application is not complete, the notice, the application and the accompanying documentation shall be returned to the applicant.

(b) Within sixty–seven (67) working days of the receipt of a complete and acceptable application, the department shall review the application and plans, and either issue a plan certification or provide the applicant with written notice of the department's refusal to issue a plan certification. The written notice of refusal shall specify the reason(s) why the plan certification is not being issued.

(c) An application for plan certification shall be considered complete and acceptable if it is in compliance with the provisions of section 1372 of this article.

(d) Should an applicant fail to submit a complete and acceptable application and plan within ninety (90) days of the notice of rejection, the application shall be deemed abandoned and all fees submitted pursuant to section 1025 shall be forfeited to the department. Should an applicant cancel the application for the plan certification prior to obtaining certification, all fees submitted shall be forfeited to the department.

(e) A survey conducted pursuant to Government Code section 15376 of the department's performance determined the minimum, median, and maximum elapsed time between receipt of a completed application for plan certification and reaching a final decision; the results are as follows:

(1) Minimum: 10 working days
(2) Median: 12 working days
(3) Maximum: 67 working days.

NOTE: Authority cited: Sections 18502.5 and 18613.5, Health and Safety Code. Reference: Sections 18300, 18502.5 and 18613.5, Health and Safety Code.

HISTORY

1. Amendment of subsections (a), (b), and (c), renumbering of old subsection (c) to subsection (d), and new subsections (c) and (e) filed 4–24–91; operative 4–24–91 (Register 91, No. 24).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1372.6. Calculations and Test Procedures.

(a) The load–bearing capacity of elements or assemblies shall be established by calculations in accordance with generally established principles of engineering design. However, when the composition or configuration of elements, assemblies, or details of structural members is such that calculations of their safe load–carrying capacity and basic structural integrity cannot be accurately determined in accordance with generally established principles of engineering design, structural properties of such members or assemblies may be established by the results of tests acceptable to the department.

If a manufacturer chooses to substantiate a design or method of construction by tests, the manufacturer shall contact the department prior to performing the tests to obtain information on testing criteria. If a department representative is required to witness the tests, the manufacturer shall be so notified.

(b) When any structural design or method of construction is substantiated by calculations and supporting data, such calculations and supporting data shall be signed by an architect or engineer and shall be submitted to the department.

(c) When the design of an earthquake resistant bracing system is substantiated by calculation or tests, all structural plans shall be signed by an architect or engineer in charge of the total design.

(d) When any design or method of construction is substantiated by tests, all test procedures and results shall be reviewed, evaluated, and signed by an architect or engineer.

NOTE: Authority cited: Section 18613.5, Health and Safety Code. Reference: Sections 18300 and 18613.5, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1373. Expiration.

(a) Plans shall expire two (2) years from the date of department certification.

(b) Certification of a design, which has not been changed since the most recent plan certification, may be renewed by resubmission, in triplicate, with all information required by section 1372, and renewal fees as specified in section 1025 on or before the expiration date of the certification.

NOTE: Authority cited: Sections 18502.5 and 18613.5, Health and Safety Code. Reference: Sections 18300, 18502.5 and 18613.5, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1374. Revisions of Certification.

(a) When an applicant proposes revisions of a certification which does not change the structural system or method of construction of the system, the applicant shall submit an application in triplicate, three copies of the revised plan and specifications, two copies of the revised design calculations, and a revision fee as specified in section 1025.

(b) Plans which have been returned to the applicant for correction shall be resubmitted together with a resubmission fee and certification review fee as specified in section 1025.

NOTE: Authority cited: Section 18613.5, Health and Safety Code. Reference: Sections 18300 and 18613.5, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1374.2. Amended Regulations.

If substantive amendments of the department's regulations require changes to a certification, the department shall notify the applicant of such changes and shall allow the applicant one hundred eighty (180) days from the date of such notification in which to submit a revision. The revision proposal submitted pursuant to this section shall be submitted with appropriate fees. A proposal submitted after the one hundred eighty (180) day period of time provided shall be processed as a new application with appropriate fees.

NOTE: Authority cited: Sections 18502.5 and 18613.5, Health and Safety Code. Reference: Sections 17003.5, 18300, 18502.5 and 18613.5, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1374.4. Change of Ownership, Name or Address.

When there is a change of ownership, name or address of an earthquake resistant bracing system manufacturing business having depart-

ment certification, the manufacturer shall notify the department in writing within ten (10) days. The notification shall be accompanied by a change in ownership, name or address fee pursuant to section 1025 of this article.

NOTE: Authority cited: Sections 18502.5 and 18613.5, Health and Safety Code. Reference: Sections 18300, 18502.5 and 18613.5, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1374.5. Permit Required.

(a) A permit shall be obtained from the enforcement agency prior to installation or reinstallation of a certified earthquake resistant bracing system on or under an MH–unit.

(b) When an earthquake resistant bracing system is installed at the time of the MH–unit installation, separate permits shall be required for the installation of the MH–unit and the earthquake resistant bracing system.

NOTE: Authority cited: Sections 18300 and 18613.7, and Health and Safety Code. Reference: Sections 18502.5 and 18613.7, Health and Safety Code.

HISTORY

1. New section filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 2).
4. New section filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–26–90 order transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
6. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1374.6. Permit Application.

The person, firm, or business required to obtain a permit to install or reinstall an earthquake resistant bracing system on or under an MH–unit shall apply to the enforcement agency. Where the department is the enforcement agency, the application shall be made on form HCD 50 ERBS.

NOTE: Authority cited: Sections 18300 and 18613.7, Health and Safety Code. Reference: Sections 18613, 18613.5 and 18613.7, Health and Safety Code.

HISTORY

1. New section filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 2).
4. New section filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–26–90 order transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
6. Change without regulatory effect amending subsections (a) and (b) and form filed 2–5–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 12).
7. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1374.7. Installation Requirements.

(a) An MH–unit earthquake resistant bracing system may only be installed by:

(1) The MH–unit registered owner; or

(2) A contractor as defined in Business and Professions Code section 7026. The contractor shall be licensed by the Contractors State License Board, and provide proof of a current license, and current Workers' Compensation Insurance coverage or certify to exemption from Workers' Compensation Insurance.

(b) The permit shall be in the possession of the installer and available to the enforcement agency during the installation of an earthquake resistant bracing system.

(c) Installations of earthquake resistant bracing systems shall comply with the ERBS manufacturer's installation instructions certified by the department. Certified systems shall not be modified without recertification by the department.

(d) The installer shall provide a copy of the ERBS manufacturer's installation instructions to the registered owner of the MH–unit when the installation is completed. The copy of the ERBS manufacturer's installation instructions must have been made from the original bearing the department's stamp of approval.

(e) The installer shall obtain the mobilehome park operator's written approval prior to excavating for support or hold down footings and endangering underground utilities. Park operator approval is not required for installations that are entirely above ground or where excavation is not required.

(f) Where the space beneath an MH–unit is enclosed, access to the underfloor area shall be in accordance with section 1346(a).

NOTE: Authority cited: Sections 18300 and 18613.7, Health and Safety Code. Reference: Sections 18300 and 18613.7, Health and Safety Code, and Section 3800, Labor Code.

HISTORY

1. New section filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 2).
4. New section filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–26–90 order including amendment of subsections (e) and (f) transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
6. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1375. Inspections.

(a) The department may conduct inspections to determine compliance with the approved certification.

(b) The enforcement agency shall conduct an inspection of each certified earthquake resistant bracing system, installed or reinstalled on or under an MH–unit.

(c) Should inspection by an enforcement agency other than the department reveal that a manufacturer is manufacturing systems which do not conform to the department's certification, the enforcement agency shall, within ten (10) days of the inspection, notify the department in writing. The written notification shall include:

(1) The ERBS manufacturer's name.

(2) The model name and/or identifying number.

(3) The MH–unit's registered owner's name and address where the system was installed.

(4) A brief description of the facts constituting the earthquake resistant bracing system's noncompliance with the department's certification.

(d) Upon receiving a correction notice of noncompliance with department certification from a local enforcement agency, or upon obtaining such information by inspection, the department shall provide written notification of noncompliance requiring correction within thirty (30) days, or at a later date as determined by the department, to the manufacturer.

The department shall also send an informational copy of the ERBS manufacturer's notification of noncompliance to the listing or testing agency that investigated and listed the system. The ERBS manufacturer shall apply for reinspection in accordance with section 1375.2.

(e) Where the ERBS manufacturer, after having been notified of the violation, fails to comply with the order to correct, or continues to manufacture systems in violation of the certification, the department's certification shall be revoked.

(f) If, as a finding of inspection, the installation of an earthquake resistant bracing system is found to be in violation of the ERBS manufacturer's installation instructions and/or plan, the enforcement agency shall provide the installer with a written correction notice of the violation requiring correction within thirty (30) days or at a later date as determined by the enforcement agency. The written notice shall also require the installer to make application to the enforcement agency for reinspection upon correction of the violations. The installer shall apply for reinspection in accordance with section 1375.2.

NOTE: Authority cited: Sections 18613.5 and 18613.7, Health and Safety Code. Reference: Sections 18300, 18613.5 and 18613.7, Health and Safety Code.

HISTORY

1. Amendment filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Reinstatement of section as it existed prior to emergency amendment filed 3–12–90 by operation of Government Code section 11346.1(f) (Register 91, No. 2).
4. Amendment of subsection (b), renumbering of old subsection (b) to subsection (c), and new subsections (b) and (d) filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORY 4. (Register 91, No. 24).
6. Certificate of Compliance as to 11–26–90 order transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
7. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1375.2. Required Correction and Reinspection.

(a) Any ERBS manufacturer issued a notice of violation pursuant to section 1375, shall take appropriate action to eliminate the violations and conform to the department's certification within thirty (30) days or at a later date as set forth in the notice of violation. Upon correction of the violations, the ERBS–manufacturer shall apply to the department for reinspection. The application shall be accompanied by the reinspection fee specified in section 1025.

(b) Any person, firm or business having installed an earthquake resistant bracing system certified by the department, who is issued a notice of violation pursuant to section 1375, shall take appropriate action to eliminate the violations and conform to the ERBS manufacturer's installation instructions within thirty (30) days or at a later date as set forth in the notice of violation. Upon correction of the violations, the installer shall apply to the enforcement agency for reinspection.

NOTE: Authority cited: Sections 18300 and 18613.7, Health and Safety Code. Reference: Sections 18300 and 18613.7, Health and Safety Code.

HISTORY

1. New section filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 2).
4. New section filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–26–90 order transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
6. Change without regulatory effect amending subsections (a) and (b) and adopting new form filed 2–5–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 12).
7. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1376. Fees.

NOTE: Authority cited: Sections 18502.5, 18613.5 and 18613.7, Health and Safety Code. Reference: Sections 18300, 18502.5, 18613.5 and 18613.7, Health and Safety Code.

HISTORY

1. Amendment of subsections (f) and (g), and new subsection (h) filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Reinstatement of section as it existed prior to emergency amendment filed 3–12–90 by operation of Government Code section 11346.1(f).
4. Amendment of subsections (f) and (g), and new subsection (h) filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORIES 3. and 4. (Register 91, No. 24).
6. Certificate of Compliance as to 11–26–90 order including amendment of subsections (b), (c), (d) and (e) transmitted to OAL 3–25–91; filed 4–24–91 (Register 91, No. 24).
7. Renumbering of former section 1376 to new section 1025 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1377. Permit Application Review and Notice of Department Decision.

(a) Within one (1) working day of the receipt of an application to install an earthquake resistant bracing system, the department shall provide the applicant with written notice whether the application is complete pursuant to section 1374.6 and acceptable for filing. If the application is not complete, the notice shall specify the information and/or documentation necessary to complete the application. If the application is not complete, the notice, the application and the accompanying documentation shall be returned to the applicant.

(b) Within seventeen (17) working days of the receipt of a complete and acceptable application, the department shall issue a permit or shall provide the applicant with written notice of the department's refusal to issue a permit. The written notice of refusal shall specify the reasons why the permit may not be issued.

(c) An application for a permit to install an earthquake resistant bracing system shall be considered complete and acceptable if it is in compliance with the provisions of section 1374.6 of this article.

(d) Should the applicant fail to submit a complete and acceptable application within ninety (90) days of the notice of rejection, the application shall be deemed abandoned and all fees submitted pursuant to section 1025 shall be forfeited to the department. Should an applicant cancel the application for the permit to install a manufactured home or mobilehome earthquake resistant bracing system, all fees submitted shall be forfeited to the department.

(e) The estimated minimum, median, and maximum elapsed time between receipt of a completed application for a permit to install an earthquake resistant bracing system and reaching a final decision are as follows:

(1) Minimum	one (1) working day
(2) Median	two (2) working days
(3) Maximum	seventeen (17) working days

(f)(1) The applicant may request and shall be granted an informal administrative hearing for a timely resolution of any dispute arising from a violation of the time periods within which the department must process

this application. Such request may be made to the Secretary of the Business, Transportation, and Housing Agency and or the director of the department or his or her duly authorized representative. The request shall be a written petition requesting a hearing which sets forth a brief statement of the grounds therefor.

(2) Upon receipt of the written petition, the department shall set a time and place for the hearing and shall give the petitioner at least ten (10) days written notice. The hearing shall commence no later than thirty (30) days after the day on which the petition was filed except that, upon application or concurrence of the petitioner, the department may postpone the date of the hearing for a reasonable time beyond the thirty (30)–day period, if in its judgment the petitioner has submitted or the department has a good and sufficient reason for the postponement. Should petitioner fail to appear at the scheduled time and place of the hearing, the department may dismiss the petition without further action or take other action as may be appropriate.

(3) Upon conclusion of the hearing, either the Secretary of the Business, Transportation, and Housing Agency or the director of the department, or his or her duly authorized representative, shall notify the petitioner in writing of the decision in the matter and the reasons therefor, within forty–five (45) days.

(4) The petition shall be decided in the applicant's favor, if the department has exceeded the established maximum time period of issuance or denial of the permit and the department has failed to establish good cause for exceeding the time period.

(5) If the petition is decided in the applicant's favor, the applicant shall receive full reimbursement of any and all filing fees paid to the department.

NOTE: Authority cited: Sections 18502.5 and 18613.7, Health and Safety Code, and Section 15376, Government Code. Reference: Sections 18300, 18502.5 and 18613.7, Health and Safety Code, and Section 15376, Government Code.

HISTORY

1. New section filed 3–12–90 as an emergency; operative 3–12–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–90.
2. Readoption of emergency language filed 7–9–90; operative 7–10–90 (Register 90, No. 35). A Certificate of Compliance must be transmitted to OAL by 11–7–90 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–9–90 order transmitted to OAL on 10–17–90; disapproved by OAL on 11–16–90. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 2).
4. New section filed 11–26–90 as an emergency; operative 11–26–90 (Register 91, No. 2). A Certificate of Compliance must be transmitted to OAL by 3–26–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–26–90 order including amendment of subsections (a), (b), (e) and (f) transmitted to OAL 3–25–91 and filed 4–24–91 (Register 91, No. 24).
6. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 8. Permanent Buildings and Commercial Modulars

§ 1380. Authority.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18620, 18630, 18670, 18690, Health and Safety Code.

HISTORY

1. Amendment of article heading and repealer of section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1382. Application and Scope.

(a) The requirements of this article shall apply to the construction, alteration, repair, use, maintenance, and occupancy of permanent buildings and commercial modulars in parks. The provisions of this article relating to permanent buildings and commercial modulars in parks do not apply to accessory buildings or structures or building components established for use of an occupant of a unit. The department shall administer and enforce all of the provisions of this article relating to permanent buildings and commercial modulars in parks except in a city, county, or city and county, which has assumed responsibility for enforcement of Division 13, Part 2.1 of the Health and Safety Code and this chapter.

(b) Existing construction, connections, and installations of plumbing, electrical, fuel gas, fire protection, within permanent buildings or commercial modulars in parks, made before the effective date of the requirements of this chapter, may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18300, 18620, 18630, 18670 and 18690, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1384. Local Regulations.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18300, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1386. Standard Plan Approval, Permanent Buildings.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18300, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1388. Construction of Permanent Buildings.

(a) Design and construction requirements for permanent buildings in parks are contained in the California Building Code.

(b) The requirements for electrical wiring, fixtures, and equipment installed in permanent buildings in parks are contained in the California Electrical Code.

(c)The requirements for fuel gas equipment and installations installed in permanent buildings in parks are contained in the California Mechanical Code.

(d) The requirements for plumbing in permanent buildings in parks are contained in the California Plumbing Code.

(e) The requirements for fire protection equipment and installations in all permanent buildings are contained in the applicable requirements of the California Building Code.

(f) The energy conservation requirements for all permanent buildings which contain conditioned space are contained in the energy conservation standards for new non–residential buildings contained in the California Energy Code.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18620, 18630, 18670, 18690 and 18691, Health and Safety Code.

HISTORY

1. Amendment filed 5–26–87; operative 6–25–87 (Register 87, No. 23).
2. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1390. Electrical Regulations.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18670, Health and Safety Code.

HISTORY

1. Amendment filed 5–26–87; operative 6–25–87 (Register 87, No. 23).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1392. Mechanical and Fuel Gas Equipment and Installations.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Amendment filed 5–26–87; operative 6–25–87 (Register 87, No. 23).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1394. Plumbing Regulations.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18620 18630, Health and Safety Code.

HISTORY

1. Amendment filed 5–26–87; operative 6–25–87 (Register 87, No. 23).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1396. Fire Protection Equipment.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18620, 18691, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1398. Energy Conservation Standards.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18620, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1399. Commercial Modular Requirements.

(a) The applicant for a permit to install a commercial modular in a park in lieu of a permanent building shall submit a request for an alternate approval to the department in accordance with section 1016. The request for alternate approval shall be accompanied by evidence of compliance with section 1032 of this chapter.

(b) A commercial modular installed in a park shall bear an insignia of approval issued by the department in accordance with Health and Safety Code section 18026.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18620 and 18305, Health and Safety Code.

HISTORY

1. Renumbering of former section 1400 to new section 1399, including amendment of section heading and section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1400. Commercial Coach Use.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18620, 18305, Health and Safety Code.

HISTORY

1. Renumbering of former section 1400 to new section 1399 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 9. Accessory Buildings and Structures

§ 1420. Authority.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18300, 18552, 18610, 18620, Health and Safety Code.

HISTORY

1. Amendment of article heading and repealer of section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1422. Application and Scope.

(a) Except as otherwise noted, the requirements of this article shall apply to the construction, use, maintenance, and occupancy of accessory buildings or structures and building components constructed or installed adjacent to units both within and outside of parks.

(b) Accessory buildings or structures or building components that are constructed and maintained in accordance with those statutes and regulations which were in effect on the date of original construction, are not subject to the requirements of subsequent regulations. An accessory building or structure or building component that is moved to a different location shall be subject to the permit to construct requirements of this chapter. Any alterations or additions must comply with the current provisions of this chapter.

(c) No accessory structure may be attached to or be supported by an MH–unit if the manufacturer's installation instructions prohibit attachment or transmission of loads to the unit or require freestanding structures.

(d) When the manufacturer's installation instructions are not available, accessory structures with a roof live load greater than ten (10) psf shall be freestanding. An existing awning or carport, exceeding ten (10) psf that was previously supported by the unit, may be reinstalled at the time of MH–unit installation.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18254 and 18552, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1424. Regulated Structures.

(a) Accessory buildings or structures or building components which do not comply with this article or are deemed to be unsafe by the enforcement agency shall not be allowed, constructed, or occupied.

(b) A permit shall be obtained from the enforcement agency to construct or install an accessory building or structure as required by Article 1 of this chapter, unless specifically exempted in section 1018 of this chapter.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18500 and 18552, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1426. Responsibility.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18400, 18401, 18500, 18552, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1428. Location.

(a) In parks, accessory buildings or structures, or any part thereof, on a lot shall maintain the following setbacks from lot lines:

(1) When constructed of noncombustible materials:

(A) may be up to the lot line, provided a minimum three (3)–foot clearance is maintained from any other unit, accessory building or structure, or building component on adjacent lots.

(2) When constructed of combustible materials:

(A) a minimum three (3)–foot clearance from all lot lines, and

(B) a minimum six (6)–foot clearance from any other unit, accessory buildings or structures, or building components on adjacent lots constructed of combustible materials.

(b) Cabañas shall meet the location requirements for units, as referenced in section 1330 of this chapter.

(c) Location requirements governing private garages and storage buildings are contained in section 1443.

(d) Stairways with landings not to exceed twelve (12) square feet may be installed to the lot line provided they are located a minimum of three (3) feet from any unit, or accessory building or structure, including another stairway, on an adjacent lot. However, if the stairway is an up–and–over design (steps up the front and down the back) that provides access to the lot beyond the stairway, it does not need to maintain the separation from a unit or accessory building or structure, including another stairway, on an adjacent lot.

(e) Fencing of any material, that meets the requirements of section 1514 of this article, may be installed up to a lot line.

(f) No portion of an accessory building or structure, or building component shall project over or beyond a lot line.

(g) Any accessory building or structure, or building component may be installed up to a lot line bordering a roadway or common area provided there is no combustible building or structure in the common area within six (6) feet and no building or structure of any kind within three (3) feet of any portion of the accessory building or structure, or building component. The maximum seventy–five percent (75%) lot coverage allowed by section 1110 of this chapter shall be maintained.

(h) Wood awning or carport support posts four (4) inches or greater in nominal thickness may be located up to a lot line provided the remainder of the awning or carport is composed of noncombustible material.

NOTE: Authority cited: Sections 18300 and 18610, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (d) and new subsection (h) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).
4. Amendment of subsections (d) and (g) and amendment of NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1429. Required Exits.

(a) An enclosed accessory building or structure or building component may be constructed or installed to enclose an emergency exit window from a sleeping room within a unit provided the enclosed area adjacent to the emergency exit window has a door not less than twenty–eight (28) inches in width and seventy–four (74) inches in height providing direct access to the outside.

(b) An accessory building or structure which encloses a required exit doorway from an MH–unit shall have an exit path and exit that does not violate the exit facilities requirements for the manufactured home, as contained in the Manufactured Home Construction and Safety Standards, 24CFR, Part 3280.105.

NOTE: Authority cited: Sections 18029 and 18300, Health and Safety Code. Reference: Sections 18029, 18552 and 18610, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of section and NOTE filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 1430. Occupied Area.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1432. Construction.

(a) Construction and installation of accessory buildings or structures or building components shall comply with the structural requirements for permanent buildings, except as otherwise provided by this article. The enforcement agency may that require accessory buildings and structures or building components be designed and constructed to withstand live loads, vertical uplift or horizontal forces from any direction in excess of the minimum loads specified in this chapter, based on local geologic, topographic, or climatic conditions, when approved by the department.

(b) Accessory buildings and structures constructed of aluminum or aluminum alloy shall be designed to conform to the specifications contained in the California Building Code, Chapter 20.

(c) Unless data to substantiate the use of higher values is submitted to the enforcement agency, the allowable loading of accessory buildings or structures or building components on the soil shall not exceed one thousand (1,000) psf vertical soil bearing pressure, one hundred fifty (150) psf of depth lateral soil bearing pressure, and one hundred sixty–seven (167) psf frictional resistance for uncased cast–in–place concrete piles.

NOTE: Authority cited: Section 18300, Health as Safety Code. Reference: Sections 18552 and 18620, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1433. Roof Live Load.

(a) Except as provided in section 1443.1 of this article, every cabana installed on or after July 31, 1976, or every accessory building or structure or building component installed on or after June 10, 1979, shall have the capacity to resist the applicable minimum snow load of the region in which it is installed or as is provided by this section.

NOTE: An accessory structure located beneath another accessory structure (e.g., a porch which is located beneath an awning) is excluded from the snow load requirements of this section when the overlying accessory structure meets the requirements of this section.

TABLE 1433–1
General Roof Live Load Requirements for
Accessory Buildings or Structures and
Building Components

Region I		*Region II*		*Region III*	
Elevation	*Roof Live Load*	*Elevation*	*Roof Live Load*	*Elevation*	*Roof Live Load*
All Elevations	20 psf	0–3000 ft	20 psf	0–2000 ft	20 psf
		3001–3500 ft	30 psf	2001–3000 ft	30 psf
		3501–5000 ft	60 psf	3001–4000 ft	60 psf

Table 1433–1 shall apply except where either greater or lesser snow loads have been established through survey of the region, and approved by the department.

(1) Region I includes the following counties:

Alameda, Butte, Colusa, Contra Costa, Del Norte, Glenn, Humboldt, Imperial, Kings, Lake, Los Angeles, Marin, Mendocino, Merced, Monterey, Napa, Orange, Sacramento, San Benito, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Ventura, Yolo.

(2) Region II includes the following counties:

Amador, Fresno, Inyo, Kern, Modoc, Riverside, San Bernardino, Siskiyou.

(3) Region III includes the following counties:

Alpine, Calaveras, El Dorado, Lassen, Madera, Mariposa, Mono, Nevada, Placer, Plumas, Shasta, Sierra, Tehama, Trinity, Tulare, Tuolumne, Yuba.

(b) Parks that have received approval for a snow roof load maintenance program prior to July 7, 2004, shall maintain the snow roof load maintenance program, as long as accessory buildings or structures, or building components in the park do not meet the minimum roof loads for the area. Accessory buildings or structures or building components installed after July 7, 2004, must have the capacity to resist the applicable minimum roof live loads of the region in which it is installed, as set forth in Table 1433–1.

(c)The park owner or operator shall be responsible for the continued management of an existing snow roof load maintenance program approved for the park.

(d) Roof live load requirements shall not apply to storage cabinets.

(e) Accessory buildings or structures or building components may be relocated from one park to another and reinstalled under permit within another park provided the requirements for roof live load in the new park are not greater than the requirements of the park in which the accessory building or structure or building component was previously installed.

NOTE: Authority cited: Sections 18300 and 18610, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (a), Table 1433–1, subsection (b) and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1433.1. Accessory Building or Structure Roof Live Loads in Parks Located Above 4,000 Feet in Elevation.

(a) Notwithstanding the provisions of Section 1433, if an accessory building or structure that is proposed to be installed within a mobilehome park located above 4,000 feet in elevation does not have the capacity to resist the minimum snow loads as established for residential buildings by local ordinance, the accessory building or structure may only be installed in a mobilehome park if all of the following conditions apply:

(1) The park has and is operating a snow roof load maintenance program approved by the enforcement agency;

(2) the accessory building or structure has the capacity to resist a roof live load of sixty (60) pounds per square foot (psf)or greater;

(3) the installation complies with all other applicable requirements of this chapter;

(4) the installation is approved by the enforcement agency; and

(5) the enforcement agency's approval of the snow roof load maintenance program is shown on the mobilehome park's permit to operate.

NOTE: An accessory structure located beneath another accessory structure (e.g., a porch which is located beneath an awning) is excluded from the snow load requirements of this section when the overlying accessory structure meets the requirements of this section.

(b) The operator of a mobilehome park located above 4,000 feet in elevation may request and obtain approval from the enforcement agency for a snow roof load maintenance program. The request for an approval shall include, but not be limited to, the following information:

(1) The type of maintenance to be used to control snow accumulation;

(2) the capacity and capability of personnel and equipment proposed to satisfactorily perform the snow roof load maintenance program; and

(3) an application for an amended permit to operate in accordance with section 1014 of this chapter.

NOTE: Authority cited: Sections 18300 and 18610, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. New section filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52). For prior history, see Register 2005, No. 49.

§ 1434. Calculations and Test Procedures.

(a) The load bearing capacity of elements or assemblies shall be established by calculations in accordance with generally established principles of engineering design. However, when the composition or configuration of elements, assemblies or details of structural members are such that calculations of their safe load–carrying capacity and basic structural integrity cannot be accurately determined in accordance with generally established principles of engineering design, structural properties of such elements or assemblies may be established by the results of tests that are designed and certified by an architect or engineer, with the test results approved by the department.

(b) When any structural design or method of construction is substantiated by calculations and supporting data, the calculations and supporting data shall be approved by an architect or engineer and shall be submitted to the department.

(c) When the design of accessory structures is substantiated by calculations or tests, all structural plans shall be approved by the architect or engineer in charge of the total design.

(d) When any design or method of construction is substantiated by tests, all of these tests shall be performed by an approved testing agency acceptable to the department or shall be directed, witnessed, and evaluated by an independent architect or engineer. All test procedures and results shall be reviewed, evaluated, and signed by an architect or engineer. The approved testing agency, architect, or engineer shall submit the evaluation of test results, calculations, and recommendations, to the department. The department may require that a representative of the department witness the test.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1436. Electrical Installations.

(a) Electrical equipment and installations within an accessory building or structure or building component and the circuit supplying power shall be installed by a permanent wiring method and shall comply with the requirements for electrical installations of this chapter.

(b) Flexible cord shall not be used to supply an accessory building or structure or building component, or as a substitute for the fixed wiring of an accessory building or structure or building component.

(c) Unless otherwise specified by this article, electrical service provided to an accessory building or structure or building component may be supplied by either of the following:

(1) from the lot service equipment, provided:

(A) a permit is obtained to alter the lot electrical service by installing a separate overcurrent protective device rated not more than the total calculated electrical load, and

(B) the lot service equipment is capable of supplying the additional load, and

(C) the overcurrent protective device and its installation complies with the California Electrical Code.

(2) from an MH–unit provided:

(A) the MH–unit is capable of supplying the additional load, and

(B) a permit to alter the MH–unit's electrical system, substantiated with load calculations, is obtained from the department pursuant to the California Code of Regulations, Title 25, Division 1, Chapter 3.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18029, 18552 and 18670, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1438. Mechanical Installations.

Requirements for heating, ventilating, comfort cooling systems, related equipment, and fireplaces constructed or installed in, or in conjunction with, accessory buildings or structures or building components are contained in the California Mechanical Code.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18630 and 18690, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1440. Plumbing.

(a) The requirements for fuel gas piping, plumbing systems, and equipment installed in accessory buildings or structures or building components are contained in the California Plumbing Code, except as otherwise specified in this article.

(b) A unit directly connected to the water distribution system of a park shall be connected with piping and fittings listed and approved for that purpose. Flexible hose shall not be used as a substitute for water piping or connections.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18554 and 18630, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1442. Foam Building System Flammability Standards.

The requirements of Title 25, California Code of Regulations, Chapter 1, Subchapter 1, Article 4, section 24 shall apply to the use of any foam plastic or foam plastic building system used in the construction of accessory buildings or structures.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18691, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1443. Private Garages and Storage Buildings.

(a) A private garage or storage building may be located immediately adjacent to a unit if the garage or storage building wall adjacent to the unit is constructed of materials approved for one (1) hour fire–resistant construction. If there are openings which are not one (1) hour fire–rated in the unit wall adjacent to the garage or storage building wall, a minimum of three (3) feet of separation shall be maintained. A minimum of six (6) feet of separation shall be maintained between the unit and a private garage or storage building which does not meet the requirements for one (1) hour fire–resistant construction.

(b) A three (3) foot separation shall be maintained from a private garage or storage building and any lot line which does not border on a roadway.

(c) Garages shall be designed and constructed as freestanding structures. They shall not be attached to or supported by an MH–unit; however, to provide a weather seal, flashing or sealing materials may be affixed between the garage and the MH–unit.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (a) and new subsection (c) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 1444. Cabana Permitted.

A cabana may be constructed, occupied, and maintained on a lot only as an accessory structure to a unit located on the same lot. A cabana shall not be erected, constructed, occupied or maintained on a lot as an accessory structure to a motor home, tent trailer, or slide–in or truck–mounted camper.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1446. Cabana—Design and Construction.

A cabana shall be designed and constructed as a freestanding structure. A cabana shall not be attached to a unit. However to provide a weather seal, flashing or sealing materials may be affixed between the cabana and the unit. The design and construction requirements applicable to cabanas are contained in the California Building Code, except as otherwise provided in this article.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1448. Cabana—Dimensions.

(a) A cabana shall have a minimum ceiling height of seven feet from the finished floor to the finished ceiling, or, if there is no finished ceiling, to the bottom of the roof supports, except:

(1) a cabana must maintain a minimum ceiling height equal to the ceiling height of the unit for at least fifty (50) percent of the cabana;

(2) if the ceiling or roof is sloped, the minimum ceiling height is required for not less than one–half (1/2) of the sloping ceiling area. No portion of any room having a ceiling height of less than five (5) feet shall be considered as contributing to the minimum area required by this section.

(b) Cabana habitable room dimension requirements:

(1) A habitable room created by the construction of a cabana shall not be less than seven (7) feet in any horizontal dimension, and

(2) shall have a superficial floor area of not less than seventy (70) square feet, excluding a private toilet and bath compartment or storage area.

(3) For purposes of this subsection, horizontal dimension requirements for rooms created by the construction of a cabana may include existing space within the unit.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18630, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1450. Cabana–Support System.

(a) Cabanas may be installed using a support system in lieu of continuous footings. Girders shall be designed and constructed to evenly distribute the loads carried to the footings.

(b) Support systems shall comply with the applicable requirements of section 1334.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Editorial correction of section heading (Register 2005, No. 33).

§ 1452. Cabana—Floors.

Where a concrete floor on grade is used, it shall have a thickness of not less than three–and–one–half (3 1/2) inches. The surface of a concrete floor shall not be less than two and one–half (2 1/2) inches above the adjacent grade. Wood sills shall not be less than six (6) inches from adjacent earth. A wood floor may be laid directly on a waterproofed concrete slab.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1454. Cabana—Weather Protection.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1456. Cabana—Exits.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1458. Cabana—Light and Ventilation.

(a) Each habitable room shall have an aggregate window area of not less than ten (10) percent of the gross floor area, or ten (10) square feet, whichever is greater. When the cabana encloses windows of the manufactured home or mobilehome, park trailer, or travel trailer required for light and ventilation, the window area of the cabana shall be not less than twenty (20) percent of the gross floor area of the cabana.

(b) A bathroom, toilet room, or service room shall have an aggregate window area of not less than three (3) square feet, except where an approved mechanical ventilation system is provided. When a service or storage room does not enclose or obstruct a window of the manufactured home or mobilehome, park trailer, or travel trailer, no additional window area is required.

(c) Where ventilation of a room is by natural means, openings such as windows, skylights, grilles or gravity vents shall have a minimum net free cross–sectional area opening to the outer air equal to five (5) percent of gross floor area.

(d) Required windows of a cabana shall open to an open space, either directly or through a porch or awning having a minimum clear height of not less than six (6) feet two (2) inches. Such porch or awning shall be at least fifty (50) percent open on the side opposite the windows.

(e) For bathrooms, toilet rooms or service rooms, where the net free cross–sectional area of available natural ventilation is less than five (5) percent of the gross floor area, an approved system of mechanical ventilation and artificial light may be used in lieu of required natural light and ventilation.

(f) Where mechanical ventilation is installed, it shall be capable of producing two (2) air changes per hour with not less than one–fifth (1/5) of the air supply taken from outside the cabana, except that in bathrooms, toilet rooms or service rooms, the mechanical ventilation system, connected directly to the outside, shall be capable of providing five (5) air changes per hour.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1460. Cabana—Electrical Installations.

(a) The requirements for electrical installations in cabanas shall comply with the California Electrical Code.

(b) Each cabana shall be provided with not less than one (1) branch circuit complying with section 1436 of this chapter.

(c) When electrical heating equipment or other fixed appliances are installed in a cabana, the cabana shall be provided with not less than two branch circuits.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18670, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1462. Cabana—Cooking Facilities.

Cooking appliances or facilities shall not be installed or used in a cabana.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1464. Cabana—Energy Standards.

The energy requirements for cabanas shall comply with the following:

(a) For cabanas with a total floor area of 600 square feet or less, the applicable minimum requirements in the "Mandatory Measures Checklist: Residential, MF–1R" dated August 2001, which is incorporated by reference, or as thereafter amended by the Commission, as set forth in the "Residential Manual for Compliance with California's 2001 Energy Efficiency Standards", to the extent applicable to construction materials, appliances or fixtures within the cabana.

EXCEPTION: "Cool Roof" material shall not be required for cabana construction.

(b) For cabanas with a total floor area of more than 600 square feet, the minimum requirements in the California Energy Code as applicable to residential dwellings for the zone in which the cabana will be located, to the extent applicable to construction materials, appliances, or fixtures within the cabana.

EXCEPTION: "Cool Roof" material shall not be required for cabana construction.

(c) The enforcement agency may develop and use or provide as informational guidelines energy standard charts implementing or specifying the California Energy Code requirements which are otherwise used for construction within the jurisdiction of the enforcement agency.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 1466. Awning—Permitted.

An awning may be erected, constructed, or maintained only as an accessory structure to a unit located on the same lot.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1468. Awning—Design and Construction.

(a) An awning and its structural parts, except cloth, canvas, or similar flexible materials, shall be designed, constructed, and erected to adequately support all dead loads plus a minimum vertical live load of ten (10) psf except that snow loads shall be used where snow loads exceed this minimum. Requirements for the design of awnings necessary to resist minimum horizontal wind pressure are contained in the California Building Code Appendix Chapter 31.

(b) The following awnings shall be completely freestanding;

(1) awnings with a roof structure dead load weight of more than six (6) psf;

(2) awnings exceeding twelve (12) feet in width (projection) as measured from the wall of the MH–unit to the outer edge of the awning roof; and

(3) awnings required to be designed and constructed for live loads in excess of ten (10) psf.

(c) Flashing or sealing materials may be used to provide a weather seal between a freestanding awning and a unit. No separation is required between a freestanding awning and an attached awning located on the same lot.

(d) Notwithstanding the provisions of subsection (b), an awning installed in an area with a roof live load not to exceed 20 psf with a dead load not to exceed six and one–half (6 1/2) psf may be attached to an MH–unit provided all of the following apply:

(1) the MH–unit was manufactured after September 15, 1971, and bears a department insignia of approval or a HUD label of approval; and

(2) it is provided with continuous perimeter support under the rim joist below the wall for the entire length of the awning or as a perimeter support system designed in accordance with the California Building Code and

(3) it is secured to the sidewall, excluding eaves and overhangs.

(e) Awnings with a roof structure dead load weight of one (1) psf or less, do not require perimeter supports on the MH–unit wall at the point of attachment unless the MH–unit installation instructions require perimeter wall supports because of the additional load.

(f) All awnings on lots occupied by recreational vehicles shall be freestanding and shall not transmit any loads to the recreational vehicle except for cloth or canvas or similar flexible material.

(g) When unit manufacturers' installation instructions prohibit the attachment or transmission of loads to the unit, the awning or carport shall be freestanding.

(h) Combustible material used in awnings shall not be installed within three (3) feet of the lot line pursuant to section 1428 of this chapter. However, wooden support posts, installed in accordance with section 1428(h), may be located up to a lot line.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsections (d), (d)(2) and (h) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 1470. Awning—Dimensions.

(a) A freestanding awning is not limited as to width or length, except that the total occupied area of a lot, including all accessory building or structures, shall not exceed seventy–five (75) percent of the lot area in accordance with section 1110 of this chapter.

(b) A window awning shall not project more than forty–two (42) inches from the exterior wall of the unit. Window and door awnings shall not extend more than six (6) inches horizontally beyond either side of a window or door and shall meet the location requirements of section 1428.

(c) The minimum clear height of any awning shall not be less than six (6) feet two (2) inches.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1472. Awning—Foundations.

Concrete slabs less than three and one–half (3 1/2) inches thick may be considered to have an allowable load bearing capacity of three–hundred–fifty (350) pounds per column. The enforcement agency may accept a loading not to exceed five–hundred (500) pounds per column, provided the slab is not less than three and one–half (3 1/2) inches thick and in good condition. The weight of individual poured concrete footings shall be one and one–half (1 1/2) times the calculated uplift force. The weight of concrete shall be assumed to be not more than one hundred forty–five (145) pounds–per–cubic–foot.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1474. Awning—Enclosures.

(a) Awning enclosures shall be used only for recreational or outdoor living purposes and shall not be used as carports or storage rooms nor shall they be constructed or converted for use as a habitable room or a cabana.

(b) Combustible material used for awning enclosures shall not be installed within three (3) feet of the lot line pursuant to section 1428 of this chapter.

(c) Awnings may be enclosed or partially enclosed as follows:

(1) With insect screening or removable flexible plastic material. Awning drop or side curtains shall not be permanently fastened at the sides or bottom. (A permit to construct is not required.)

(2) With rigid, readily removable transparent, or translucent materials.

(3) Awnings may be partially enclosed with solid, opaque panels, provided the panels do not exceed fifty (50) percent of the total wall area.

(4) Awnings may be completely enclosed with solid material, provided that fifty (50) percent of the total wall area is translucent or transparent material, of which twenty–five (25) percent of the total wall area shall be able to be opened for ventilation. Exiting requirements shall meet the requirements for a cabana.

(d) Where an awning is erected or constructed immediately adjacent to or over a permanently constructed retaining wall of fire resistant material, there shall be not less than eighteen (18) inches clear ventilating opening between the underside of the awning roof and the top of the wall extending the full length of the awning.

(e) An awning shall not be enclosed unless the enclosure is designed and constructed as a freestanding structure or unless the awning is designed and constructed to withstand the additional forces imposed by the enclosure.

(f) The construction requirements for awning enclosures are contained in the California Building Code, Appendix Chapter 31.

(g) Heating or cooking appliances or facilities shall not be installed or used within an awning enclosure.

(h) Drop ceilings may be supported by the MH–unit provided the combined weight of the ceiling and the awning complies with section 1468(d).

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1476. Carport and Awning—Location.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1478. Carport—Permitted.

(a) A carport may be constructed or maintained on a lot only as an accessory structure to a unit located on the same lot.

(b) A freestanding carport, or a common freestanding carport for the use of the occupants of adjacent lots, may be erected on a lot line, provided that such a carport is constructed of material which does not support combustion, and provided that there is a minimum of three (3) feet clearance from any unit or any other structure on the adjacent lots. Such freestanding carports may be connected to a unit or other accessory building or structure by an open covered walkway not exceeding six (6) feet in width.

(c) A carport shall be designed and constructed in accordance with the structural requirements for awnings as specified in section 1468.

(d) A carport shall conform to the dimensions specified in section 1470 for awnings.

(e) At least two (2) sides or one (1) side and one (1) end of a carport shall be maintained at least fifty (50) percent open and unobstructed at all times.

(1) A carport which is partially enclosed shall be designed and constructed to withstand the additional lateral forces imposed by such an enclosure as required for awning enclosures.

(2) Where a carport is constructed immediately adjacent to or over a permanently constructed retaining wall of fire resistant material, there shall not be less than eighteen (18) inches clear ventilating opening between the underside of the carport roof and the top of the wall extending the full length of the carport.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1480. Carport—Design and Construction.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1482. Carport—Dimensions.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1484. Carport—Enclosures.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1486. Ramada—Permitted.

(a) A ramada may be erected, constructed, or maintained on a lot only as an accessory to a unit located on the same lot.

(b) A ramada shall be designed and constructed as a freestanding, self–supporting structure meeting the structural requirements for cabanas as specified in section 1446.

(c) A ramada shall not be enclosed or partially enclosed on any side or end, except that the sides may be enclosed when the ramada roof is continuous with the roof of a cabana constructed on the sides of the unit.

(d) A ramada or any portion thereof shall have a clearance of not less than eighteen (18) inches in a vertical direction above any plumbing vent extending through the roof of a unit and not less than six (6) inches in a horizontal direction from each side of a unit.

(e) A minimum of two (2) ventilating openings shall be installed at the highest point in the ramada roof to eliminate the buildup of products from vents or ducts. Vent openings shall be located near the ends of the ramada for cross–ventilation and shall have a minimum cross–sectional area of twenty–eight (28) square inches. Chimneys or vents of fuel burning appliances shall extend through the ramada roof surface and shall terminate in an approved roof jack and cap installed in accordance with the appliance listing and the manufacturer's installation instructions.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, 18690 and 18610, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1488. Ramada—Location.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1490. Ramada—Design and Construction.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1492. Ramada—Enclosure Prohibited.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1494. Ramada—Roof Venting.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18690, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1496. Porches—Required Exit Facilities.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1498. Landing, Porch and Stairway—Design and Construction.

(a) Requirements for the design and construction of all structural elements of porches and stairways and railings are contained in the California Building Code, except as otherwise provided by this article. Live loads applicable to porch floors and stairways shall be not less than forty (40) psf. Porches shall be designed and constructed as completely free-standing, self-supporting structures. Except as otherwise provided in this article, stairways and ramps shall be a minimum of thirty-six (36) inches in width.

(b) Where a door of the MH-unit swings outward:

(1) the floor of the exterior landing or porch shall be not more than one (1) inch lower than the bottom of the door; and

(2) the width and depth of the exterior landing or porch serving stairs perpendicular to any outswinging door opening shall comply with subsection (a) of this section and shall not be less than the full width of the door when open at least ninety (90) degrees. Guard rails shall permit the door to open at least ninety (90) degrees.

(c) The exit stairway for a door opening on the carport side, when necessary for vehicle access, shall be not less than twenty-eight (28) inches or the full clear width of the door opening, whichever is greater, when the stairs are parallel to the MH-unit.

(d) Where the MH-unit door swings inward or is a sliding door, the landing, porch, or top step of the stairway may not be more than seven and one-half (71/2) inches below the door. The width of the landing, porch, or top step of the stairway shall comply both with subsection (a) of this section and not be less than the width of the door opening. A landing or porch is not required when the stairway has a straight run up to the door opening.

(e) The stairway may be capable of being relocated and need not be secured to the lot.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).
4. Amendment of subsections (a) and (b)(2)–(d) filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1500. Porch and Stairway Support System.

(a) Porches may be supported on piers in lieu of continuous footings. Individual piers shall be designed and constructed to evenly distribute the loads carried to the footings.

(b) Support footings shall comply with the requirements of either section 1334 of this chapter or the California Building Code.

NOTE: Authority cited: Section 1300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1502. Porch—Guardrails.

Guardrails shall be provided around the perimeter of porches and decks which are thirty (30) inches or more above grade. The requirements for porches and guardrails are contained in the California Building Code, except as otherwise provided in this chapter.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1504. Stairway—Handrails.

(a) Every stairway with four (4) or more risers, or stairways exceeding thirty (30) inches in height, shall be equipped with handrails and intermediate rails for the entire length of the handrail.

(b) Handrails with a circular cross-section shall have an outside diameter of at least one and one-quarter (1.25) inches and not greater than two (2) inches or shall provide equivalent grasping ability. If the handrail is not circular, it shall have a perimeter dimension of at least four (4) inches and not greater than six and one-quarter (6.25) inches with a maximum vertical cross-section dimension of two and one-quarter (2.25) inches. Edges shall have a minimum radius of one-hundredth (0.01) inch.

(c) The requirements for stairways and handrails are contained in the California Building Code, except as otherwise provided in this chapter.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 1506. Ramps and Handrails.

When a ramp and handrail are to be constructed in place of a stairway, the requirements for the design and construction of the ramp and handrail are contained in the California Building Code.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1508. Storage Cabinets—Number Permitted.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1510. Storage Cabinets.

(a) A storage cabinet may be located immediately adjacent to a unit on the same lot, provided all of the following conditions are met:

(1) The required exits and openings for light and ventilation of the unit, cabana, or building component are not obstructed; and

(2) The location does not prevent service or inspection of the unit's or lot's equipment or utility connections; and

(3) The separation requirements from structures on adjacent lots, contained in section 1428 of this chapter, are maintained.

(b) A storage cabinet shall not be used as a habitable structure, or any part of a habitable structure.

(c) A storage cabinet shall not exceed ten (10) feet in height.

(d) The total, combined floor area of all storage cabinets on a lot shall not exceed one hundred twenty (120) square feet.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1512. Storage Cabinets—Dimensions.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1514. Fence Height and Location.

(a) A fence located on a lot shall not exceed six (6) feet in height.

(b) A fence exceeding forty–two (42) inches in height, parallel to a unit or habitable accessory building or structure or building component, shall not be located closer than three (3) feet to that unit, habitable accessory building or structure, or building component.

[The next page is 79.]

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment of section heading and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Repealer of subsection (c) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 1516. Fence or Windbreak—Location.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1518. Standard Plan Approval.

(a) A standard plan approval may be obtained from the department for a plan for accessory buildings or structures. Department–approved plans shall be accepted by the enforcement agency as approved for the purpose of obtaining a construction permit when the design loads are consistent with the requirements for the locality and the provisions of this chapter.

(b) Requirements regarding the procedure to obtain a standard plan approval are contained in section 1020.9 of this chapter.

(c) Plan check fees shall not be required for an accessory building or structure when a standard plan approval has been obtained from the department.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18502 and 18552, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1520. Building Components.

(a) When a building component is installed on a lot for the use of the occupants of a unit, the installation of the building component requires that a permit be obtained in accordance with section 1020.3.

(b) The requirements for the construction of building components are contained in the California Code of Regulations, Title 25, Division 1, Chapter 3, sections 3020 through 3073, 3081, and 3082.

NOTE: Authority cited: Sections 18300 and 18552, Health and Safety Code. Reference: Sections 18500, 18552, 19967 and 19971, Health and Safety Code.

HISTORY

1. Amendment of section heading, section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 10. Violations, Complaints, Abatement, and Hearings

§ 1600. Application and Scope.

(a) The substandard conditions and abatement requirements contained in this article shall apply to parks, permanent buildings or structures in parks, units, accessory buildings or structures, and building components wherever they are located both within and outside of parks in all parts of the state.

(b) Existing construction, connections, and installations made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Sections 18300, 18605 and 18610, Health and Safety Code. Reference: Sections 18300, 18404, 18605 and 18610, Health and Safety Code.

HISTORY

1. Repealer and new section filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer and new article heading and section and amendment of NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
3. Amendment of article 10 heading filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 1602. Application and Scope.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18300, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1604. Responsibility.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18401, 18402 and 18603, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Renumbering of former section 1604 to new section 1102 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1605. Substandard Permanent Buildings.

Any permanent building, structure, or portion thereof, or the premises on which it is located, shall be deemed substandard and a nuisance when any of the following conditions exist that endanger the life, limb, health, property, safety, or welfare of the occupants or the public.

(a) Health hazards or inadequate sanitation that include, but are not limited to, the following:

(1) Where required, the lack of, inoperable, or defective water closet, lavatory, bathtub or shower.

(2) Where required, the lack of, inoperable, or defective kitchen sink.

(3) Lack of or inadequate hot and cold running water to plumbing fixtures.

(4) Dampness of habitable rooms.

(5) Infestation of insects, vermin or rodents.

(6) General dilapidation or improper maintenance.

(7) Lack of or defective connection of plumbing fixtures to a sewage disposal system.

(8) Lack of adequate garbage and rubbish storage and removal facilities.

(b) Structural hazards, which include, but are not be limited to, the following:

(1) Deteriorated or inadequate foundations.

(2) Defective or deteriorated flooring or floor supports.

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety.

(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle, due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(10) Lack of minimum amounts of required natural light and ventilation.

(c) A Nuisance as defined in subsection 1002.

(d) Electrical hazards which include, but are not limited to, the following:

(1) All electrical wiring that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good and safe condition, or is not being used in a safe manner.

(2) Lack of, inoperable, or defective required electrical lighting.

(e) Plumbing that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in

good or safe condition, or has cross–connections and siphonage between fixtures.

(f) Mechanical equipment, including heating equipment and its vents, that did not conform with all applicable laws and regulations in effect at the time of its installation or which has not been maintained in good and safe condition, or is not being used in a safe manner.

(1) Inoperable or defective heating facilities.

(2) Inoperable or defective ventilating equipment.

(g) Faulty weather protection shall include, but not be limited to, the following:

(1) Deteriorated roofs.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any building, structure, or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) Materials or construction not allowed or approved by this chapter or which have not been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, rubbish, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) All buildings or portions thereof not provided with adequate exit facilities as required by this chapter, except those buildings or portions thereof whose exit facilities conformed with all applicable laws and regulations at the time of their construction.

(l) All buildings, structures, or portions thereof which are not provided with the fire–resistive construction or fire–extinguishing systems or equipment required by this chapter, except those buildings, structures, or portions thereof which conformed with all applicable laws and regulations at the time of their construction.

(m) All buildings, structures, or portions thereof occupied for living sleeping, cooking, or dining purposes which are not designed or intended to be used for these occupancies.

(n) Room and space dimensions less than required by this chapter.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18254, 18402, 18404, 18620, 18630, 18640, 18670, 18690 and 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1640 to new section 1605, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1606. Substandard MH–Unit.

Any MH–unit shall be deemed substandard and a nuisance when any of the following conditions exist that endanger the life, limb, health, property, safety, or welfare of the occupants or the public.

(a) Health hazards or inadequate sanitation that include, but not be limited to, the following:

(1) Lack of, inoperable, or defective water closet, lavatory, bathtub or shower.

(2) Lack of, inoperable, or defective kitchen sink.

(3) Lack of or inadequate hot and cold running water to plumbing fixtures.

(4) Dampness of habitable rooms.

(5) Infestation of insects, vermin, or rodents.

(6) General dilapidation or improper maintenance.

(7) Lack of or defective connection of plumbing fixtures to a sewage disposal system.

(b) Structural hazards include, but are not limited to, the following:

(1) Deteriorated or inadequate foundation or stabilizing devices.

(2) Defective or deteriorated flooring or floor supports.

(3) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(4) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(5) Lack of adequate or defective ventilation.

(6) Lack of adequate room and space dimensions.

(c) Nuisance as defined in section 1002.

(d) Electrical hazards include, but are not limited to, the following:

(1) All electrical wiring that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good and safe condition, or is not being used in a safe manner.

(2) Electrical conductors which are not protected by overcurrent protective devices designed to open the circuit when the current exceeds the ampacity of the conductor.

(3) Electrical conductors which do not have ampacity at least equal to the rating of outlet devices or equipment supplied.

(4) Electrical conductors which are not protected from physical damage.

(5) Metallic boxes, fittings, or equipment in an electrical wiring system which are not grounded to prevent shock.

(6) Lack of, inoperable or defective electrical lighting.

(e) Plumbing hazards include, but are not limited to, the following:

(1) Plumbing that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good or safe condition, or has cross–connections and siphonage between fixtures.

(2) Lack of effective traps providing a water seal for each plumbing fixture.

(3) Lack of effective venting of plumbing drain piping.

(4) Broken, unsanitary or leaking plumbing pipe or fixtures.

(5) Any fixture, fitting, device or connection installed in such a manner as to permit contamination of the potable water supply.

(f) Hazardous mechanical equipment shall include, but not be limited to, the following:

(1) Mechanical equipment, including all heating equipment and its vent, that did not conform with all applicable laws and regulations in effect at the time of its installation or which has not been maintained in good and safe condition, or is not being used in a safe manner.

(2) Unvented fuel burning heating appliances unless their use is permitted by all applicable laws and regulations.

(3) Heating or fuel burning equipment, including its vent, without adequate clearance from combustible material.

(4) Unsupported, loose, or leaking fuel supply piping.

(5) Lack of, inoperable, or defective heating.

(g) Faulty weather protection shall include, but not be limited to deteriorated or ineffective waterproofing of exterior walls, roof, or floors, including broken windows or doors.

(h) Any MH–unit or portion thereof, device, apparatus, equipment, or combustible material which is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) Materials or construction not allowed or approved by this chapter or which have not been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, rubbish, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) All MH–units or portions thereof not provided with adequate exit facilities as required by this chapter except those MH–units or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction, and those facilities which have not been adequately maintained.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18402, 18404, 18550, 18605 and 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1704 to new section 1606, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.

§ 1607. Substandard Recreational Vehicle.

Any recreational vehicle shall be deemed substandard and a nuisance when any of the following conditions exist that endanger the life, limb, health, property, safety, or welfare of the occupants or the public.

(a) Health hazards that include, but are not limited to, the following:

(1) Lack of adequate or defective ventilation.

(2) Dampness of habitable rooms.

(3) Infestation of insects, vermin or rodents.

(4) General dilapidation or improper maintenance.

(b) Structural hazards shall include, but not be limited to, the following:

(1) Defective or deteriorated flooring or floor supports.

(2) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(3) Members of ceiling, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(c) Nuisance as defined in section 1002.

(d) Electrical hazards include, but are not limited to, the following:

(1) All electrical equipment and installations that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good and safe condition, or is not being used in a safe manner.

(2) Electrical conductors which are not protected by overcurrent protective devices designed to open the circuit when the current exceeds the ampacity of the conductor.

(3) Electrical conductors which do not have ampacity at least equal to the rating of outlet devices or equipment supplied.

(4) Electrical conductors which are not protected from physical damage.

(5) Metallic boxes, fittings, or equipment in an electrical wiring system which are not grounded to prevent shock.

(e) Plumbing hazards include, but are not limited to, the following:

(1) Plumbing that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good or safe condition, or has cross connections and siphonage between fixtures.

(2) Lack of effective traps providing a water seal for each plumbing fixture.

(3) Lack of effective venting of plumbing drain piping.

(4) Broken, unsanitary or leaking plumbing, pipe or fixtures.

(5) Any fixture, fitting, device or connection installed in such a manner as to permit contamination of the potable water supply.

(f) Hazardous mechanical equipment includes, but is not limited to, the following:

(1) Mechanical equipment, including all heating equipment and its vent, that did not conform with all applicable laws and regulations in effect at the time of its installation or which has not been maintained in good and safe condition, or is not being used in a safe manner.

(2) Unvented fuel burning heating appliances unless otherwise permitted by law.

(3) Heating or fuel burning equipment, including its vent, without adequate clearance from combustible material.

(4) Unsupported, loose, or leaking fuel supply piping.

(5) When provided, defective heating.

(g) Faulty weather protection includes, but is not limited to deteriorated or ineffective waterproofing of exterior walls, roof, or floors, including broken windows or doors.

(h) Any recreational vehicle or portion thereof, device, apparatus, equipment, or combustible material which is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) Materials or construction not allowed or approved by this chapter or those that have not been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, rubbish, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) All recreational vehicles or portions thereof not provided with adequate exit facilities which conformed to all applicable laws, regulations and standards in effect at the time of their construction, or those facilities that have not been adequately maintained.

(l) Any other components of recreational vehicles or portions thereof that did not conform with all applicable laws, regulations and standards in effect at the time of their construction, or those that have not been adequately maintained.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18402, 18404, 18550, 18605 and 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1706 to new section 1607, including amendment of section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1608. Substandard Accessory Buildings and Structures and Building Components.

Any accessory structure or building, or building component or portion thereof, or the premises on which the same is located, shall be deemed substandard and a nuisance when any of the following conditions exist that endanger the life, limb, health, property, safety, or welfare of the occupants or the public.

(a) Health hazards or inadequate sanitation include, but are not limited to, the following:

(1) When installed, inoperable or defective water closet, lavatory, bathtub or shower.

(2) When installed, inoperable or defective kitchen sink.

(3) When installed, inadequate hot and cold running water to plumbing fixtures.

(4) Dampness of habitable rooms.

(5) Infestation of insects, vermin or rodents.

(6) General dilapidation or improper maintenance.

(7) When installed, defective connection of plumbing fixtures to a sewage disposal system.

(b) Structural hazards, which include, but are not limited to, the following:

(1) Deteriorated or inadequate foundations or stabilizing devices.

(2) Defective or deteriorated flooring or floor supports.

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety.

(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle, due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(10) Lack of, inoperable, or defective required ventilating equipment.

(11) Lack of minimum amounts of required natural light and ventilation.

(c) Nuisance as defined in section 1002.

(d) Electrical hazards include, but are not limited to, the following:

(1) All electrical wiring that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good and safe condition, or is not being used in a safe manner.

(2) Lack of, inoperable, or defective required electrical lighting.

(e) Plumbing that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good or safe condition, or has cross–connections and siphonage between fixtures.

(f) Mechanical equipment, including heating equipment and its vents, that did not conform with all applicable laws and regulations in effect at the time of its installation or which has not been maintained in good and safe condition, or is not being used in a safe manner.

(1) Inoperable or defective heating facilities.

(g) Faulty weather protection, which includes, but is not limited to, the following:

(1) Deteriorated roofs.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any accessory structure or building or building component or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) Materials or construction not allowed or approved by this chapter or which have not been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, rubbish, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health or safety hazards.

(k) All accessory building or structures or building components or portions thereof not provided with adequate exit facilities as required by this chapter except those buildings or portions thereof whose exit facilities conformed with all applicable laws and regulations in effect at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(*l*) All buildings, structures, or portions thereof which are not provided with the fire–resistive construction or fire–extinguishing systems or equipment required by this chapter, except those buildings, structures, or portions thereof which conformed with all applicable laws at the time of their construction and whose fire–resistive integrity and fire–extinguishing system or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(m) All accessory buildings or structures or building components or portions thereof occupied for living, sleeping, cooking, or dining purposes which were not designed or intended to be used for such occupancies.

(n) Room and space dimensions less than required by this chapter.

NOTE: Authority cited: Section 18300 Health and Safety Code. Reference: Sections 18402, 18404, 18552 and 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1608 to new section 1114 and renumbering of former section 1738 to section 1608, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1610. Abatement.

(a) The registered owner of a unit, accessory building or structure, or building component that is constructed, altered, converted, used, or maintained in a manner that constitutes a violation is required to abate the violation;

(b) The legal owner of the property, or park owner or operator for properties or permanent buildings under their ownership or control, that is constructed, altered, converted, used, or maintained in a manner that constitutes a violation, is required to abate the violation.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18402, 18404, 18550, 18552, 18605, 18610 and 18613, Health and Safety Code.

HISTORY

1. Renumbering of former section 1610 to new section 1116 and renumbering of former section 1740 to section 1610, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1611. Notice of Violation, Complaints, and Orders to Correct.

(a)(1) Whenever the enforcement agency finds a condition that constitutes a violation of this chapter, the Health and Safety Code, or any other applicable provision of law, the enforcement agency shall provide a written notice to the person or entity responsible for correction of the violation.

(2) The written notice shall state the conditions which constitute the violation including a reference to the law or regulation being violated, and shall order its abatement or correction within five (5) days after the date of notice or a longer period of time as allowed by the enforcement agency.

(3) If a unit is in such condition that identification numbers are not available to determine ownership, the notice shall be given to the owner of the real property, or if located in a park, the owner or operator of the park.

(4) Whenever the enforcement agency determines a unit, habitable accessory building or structure, or permanent building constitutes an imminent hazard representing an immediate risk to the life, health, or the safety of an occupant, the enforcement agency shall post a notice on the structure, declaring it uninhabitable. The unit, habitable accessory building or structure, or permanent building shall not be occupied until deemed safe by the enforcement agency. At the time of the posting, the enforcement agency shall issue a notice as described in this section to the registered owner. A copy of the notice shall be issued to the occupant of the unit, accessory building or structure, or permanent building, if the occupant is not the registered owner.

NOTE: Authority cited: Sections 18300, 18605, 18610, 18620, 18630, 18640, 18670, 18690 and 18691, Health and Safety Code. Reference: Sections 18300, 18402, 18404, 18500, 18550, 18605, 18610, 18620, 18630, 18640, 18670, 18690 and 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1710 to section 1611, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of section heading and subsections (a)(2)–(3) filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 1612. Final Notice Requirements.

(a) If the initial notice from the enforcement agency has not been complied with on or before the date specified in the notice, the enforcement agency may institute proceedings against the cited person or entity.

(1) The enforcement agency shall issue to the cited person, the last registered owner of a cited unit, and the park owner or operator, or the legal owner of the property where the cited unit, structure, or property is located, a final notice to abate that shall contain at least the following:

(A) the date the notice is prepared;

(B) the name or names of the responsible person or entity;

(C) a list of the uncorrected violation(s) cited;

(D) final compliance date;

(E) right to request an informal conference pursuant to section 1752 of this chapter;

(F) right to request a hearing pursuant to section 1613 of this chapter

(G) a statement that any willful violation is a misdemeanor under section 18700 of the Health and Safety Code.

(2) The final notice shall be mailed, by registered or certified mail, return receipt requested, to the cited person, to the legal owner of the prop-

erty as shown on the last equalized assessment roll and to the last known address of the last registered or legal owner of record of the cited unit, unless the unit is in such condition that identification numbers are not available to determine ownership. The final notice may also be served by personal service at the discretion of the enforcement agency.

(3) The officer or employee of the enforcement agency upon giving this final notice shall file an affidavit certifying to the time and the manner in which that notice was given. He or she shall also file with the affidavit, any receipt card which may have been returned to him or her in acknowledgment of the receipt of that notice by registered or certified mail.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Sections 18402, 18404, 18552 and 18605, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer of section and renumbering of former section 1711 to section 1612, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1613. Request for Hearing, Notice of Time and Place for Hearing.

(a) Upon request for a hearing, the cited person or entity receiving a final notice of intention to abate a violation shall be granted a hearing on the matter before an authorized representative of the enforcement agency, or official authorized to conduct the hearing if the request, pursuant to this article, is made to the enforcement agency within ten (10) days after personal service or acknowledgment of receipt by mail of the final notice to abate.

(b) Upon receipt of a request for hearing from the cited person or entity, the enforcement agency shall, within sixty (60) days of receipt, hold the hearing. The enforcement agency shall provide the time and place of the hearing in a written notice to the petitioner within twenty (20) days of receipt of the request. Receipt of the request for hearing from the cited person or entity, shall postpone any judicial or administrative action by the enforcement agency until after the hearing.

(c) All procedures governing hearings related to maintenance violations are contained in article 11, commencing with section 1750.

(d) In the event that a cited violation constitutes an imminent hazard representing an immediate risk to life, health and safety of persons or property which requires immediate correction, a hearing shall not be permitted and a request for a hearing shall not extend the time for the correction of the violation.

(e) If the request for hearing is not received within ten (10) days from the date of personal service or acknowledgment of receipt by mail of the notice, the enforcement agency shall have the discretion to continue abatement proceedings.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Sections 18402, 18403, 18421 and 18605, Health and Safety Code.

HISTORY

1. Renumbering of former section 1714 to new section 1613, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1614. Lot Occupancy.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18605, 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1614 to new section 1118 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1615. Hearing.

(a) At the time and place of the hearing, the hearing officer shall hear the testimony of and accept evidence from the legal owner of the property, or park owner or operator; the cited person; or their respective representative, and any other person with information or testimony relevant to the final notice to abate. The testimony shall be limited to the condition of the cited unit, structure, or property. Prior to the hearing, the enforcement agency shall provide all evidence supporting the abatement action to the hearing officer.

(b) If the petitioner does not appear at the hearing, the enforcement agency shall have the authority to proceed immediately with abatement procedures.

(c) Within ten (10) days after conclusion of the hearing, the hearing officer shall render a written decision in the matter which sustains, modifies, or overrules the final notice to abate. The decision shall be mailed by first class mail to all parties to the hearing. If the decision sustains or modifies the final notice to abate, the hearing officer may establish new dates and schedules for compliance.

(d) At the discretion of the hearing officer, the enforcement agency shall post a copy of the written decision in a conspicuous place on the property or unit.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Renumbering of former section 1718 to new section 1615, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1616. Time to Bring Action.

Any cited person, owner, or other interested person having any objections, or feeling aggrieved at any proceedings taken by the hearing officer conducting the hearing, or the enforcement agency in ordering abatement of any violation, shall bring an action in any court of competent jurisdiction within thirty (30) days after receipt of the decision.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer of section and renumbering of former section 1720 to section 1616, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1617. Consequences of Failure to Abate.

(a) It is unlawful for the person ordered to abate a violation to fail or refuse to remove and abate that violation within the time period allowed in the order after the date of posting of an order on the cited unit, structure, or property or receipt of an order. After the expiration of the time period allowed for an order related to a violation, the enforcement agency has the authority to initiate any appropriate action or proceeding to abate the violation, including but not limited to seeking a court order for abatement by a receiver or other person.

(b) If, after the reinspections of an order to correct a violation, the enforcement agency determines that the cited person has made reasonable progress to abate the violation, or that circumstances beyond the control of the cited person have interfered with compliance or slowed compliance, the enforcement agency, in its sole discretion, may extend the period for compliance.

(c) Notwithstanding the provisions of subdivision (a), if a violation poses an imminent hazard representing an immediate risk to life, health, and safety and requires immediate correction, the enforcement agency has the authority to initiate any appropriate action or proceeding to abate a violation if abatement is not complete within the time period allowed by the notice of violation and order.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Sections 18404, 18423 and 18605, Health and Safety Code.

HISTORY

1. Renumbering of former section 1722 to new section 1617, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1618. Responsibility for Costs.

(a) The registered owner of the unit, or any other cited person or entity that fails to correct a violation within the time allotted in the original correction order, or any extension thereto, shall be held responsible for the costs of abatement of the violation. Costs of abatement, for purposes of this section, may include the enforcement agency's investigative and

case preparation costs, court costs and attorney fees, the cost associated with any physical actions taken to abate the violation, and any technical service or other fees due to the enforcement agency related to the abatement activity.

(b) If the unit is in such condition that identification numbers are not available to determine ownership, or the enforcement agency is unable to locate the owner after making a reasonable effort to do so, the owner of the property on which the unit is located shall be liable for such costs.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Sections 18402, 18403, 18404, 18423 and 18605, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer of section and renumbering of former section 1724 to section 1618, including amendment of section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1619. Removal.

(a) A unit, permanent building, accessory building or structure or building component which has been ordered to be removed due to the existence of violations or a nuisance shall be removed in a manner consistent with law.

(b) A copy of the order to remove an MH–unit accompanied by the titles, registration cards, license plates or decals, and the insignias or federal labels, if available, shall be forwarded to the department. The Department of Motor Vehicles shall be sent the order to remove a recreational vehicle with all indicia noted above. The enforcement agency shall send the required information and indicia within five (5) days after removal of a unit.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Sections 18402, 18404, 18423 and 18605, Health and Safety Code.

HISTORY

1. Renumbering of former section 1726 to new section 1619, including amendment of section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1620. Driveways (Roadways).

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18610 and 18612, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1622. Rental of Mobile Homes.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18604, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1624. Permits Required.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18500, 18550, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1626. Permit for Mobile Home Installation.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18613, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1628. Required Exit Facilities.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18605 and 18610, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1630. Construction Permit Penalty.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18501, 18502, 18503 and 18504, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1632. Removal of Vehicle Tongue.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1634. Mobile Home Connections and Installations.

NOTE: Authority cited: Section 18300, 18605 and 18610, Health and Safety Code. Reference: Sections 18550, 18554, 18605, 18610 and 18613, Health and Safety Code.

HISTORY

1. New subsections (d) and (e) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1636. Permanent Building Maintenance.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18254, 18300, 18402, 18620, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1640. Substandard Buildings.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18254, 18402, 18620, 18630, 18640, 18670, 18690, 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1640 to new section 1605 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1642. Abatement.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18402 and 18620, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1644. Existing Electrical Installations.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18605, 18610 and 18670, Health and Safety Code.

HISTORY

1. Amendment of subsection (d) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Renumbering of former section 1644 to new section 1188 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1646. Access to Electrical Equipment.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18670, Health and Safety Code.

HISTORY

1. Renumbering of former section 1646 to new section 1183 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1648. Grounding of Mobile Homes.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18670, Health and Safety Code.

HISTORY

1. Renumbering of former section 1648 to new section 1163 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1650. Electrical Appliances, Equipment, and Air Conditioning.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18670, Health and Safety Code.

HISTORY

1. Renumbering of former section 1650 to new section 1185 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1652. Electrical Feeder Assembly.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550 and 18670, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1654. Authority to Order Disconnect—Electrical.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18670, Health and Safety Code.

HISTORY

1. Renumbering of former section 1654 to new section 1190, including amendment of section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1656. Fuel Gas Systems—Maintenance.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18690, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1658. Unused Gas Outlets.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Editorial correction of section number only filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1660. Gas Outlet Risers or Meters.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1662. Mobile Home Gas Connector.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550 and 18690, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1664. LP—Gas Containers.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Renumbering of former section 1664 to new section 1211, including amendment of section heading and section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1666. LP—Gas Vessels.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1668. Charging of Vessels.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1670. Prohibited Location of Vessel.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18690, Health and Safety Code.

HISTORY

1. Renumbering of former section 1670 to new section 1212, including amendment of section heading, section and NOTE, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.

§ 1672. Authority to Order Disconnect Fuel Gas Equipment.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18690, Health and Safety Code.

HISTORY

1. Renumbering of former section 1672 to new section 1236, including amendment of section heading and section, filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1674. Maintenance of Required Toilet and Shower Facilities.

NOTE: Authority cited: Sections 18300 and 18640, Health and Safety Code. Reference: Section 18640, Health and Safety Code.

HISTORY

1. Amendment of section heading and initial sentence only filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1676. Trap.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18630, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1678. Venting.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18630, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1680. Mobile Home Drain Connector.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550 and 18630, Health and Safety Code.

HISTORY

1. Amendment of subsections (a) and (c) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1682. Mobile Home Water Connector.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18630, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1684. Fire Fighting Instructions.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1684 to new section 1305 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1686. Emergency Information.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1686 to new section 1122 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1688. Fire Conditions.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18610, 18691, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1690. Rubbish.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18610, 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1690 to new section 1120 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1692. Fuel Containers.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18610, 18690 and 18691, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1694. Care of Equipment.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1694 to new section 1314 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.

§ 1696. Accumulation of Waste Material.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18610, 18691, Health and Safety Code.

HISTORY

1. Renumbering of former section 1696 to new section 1120 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1698. Fuel Oil Containers.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18610, 18690 and 18691, Health and Safety Code.

HISTORY

1. Amendment of initial paragraph, subsections (c) and (e) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Renumbering of former section 1698 to new section 1234 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1700. Permitted Uses.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18605, 18640, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1702. Occupancy Requirements.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Section 18550, Health and Safety Code.

HISTORY

1. Repealer filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

§ 1704. Substandard Mobile Home.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18605, 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1704 to new section 1606 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1706. Substandard Recreational Vehicle.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18550, 18605, 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1706 to new section 1607 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1708. Abatement.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18401, 18402, 18605, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1710. Inspection and Notice.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Renumbering of former section 1710 to section 1611 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1712. Proceedings.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Renumbering of former section 1711 to section 1612 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1714. Request for Hearing.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Renumbering of former section 1714 to new section 1613 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1716. Notice of Time and Place of Hearing.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1718. Hearing.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Editorial correction of subsection (a) (Register 96, No. 37).
3. Renumbering of former section 1718 to new section 1615 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1720. Time to Bring Action.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Renumbering of former section 1720 to section 1616 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1722. Removal of Mobile Home or Recreational Vehicle.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Renumbering of former section 1722 to new section 1617 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1724. Responsibility for Costs.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).

2. Repealer of section and renumbering of former section 1724 to section 1618 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1726. Removal.

NOTE: Authority cited: Sections 18300 and 18605, Health and Safety Code. Reference: Section 18605, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1728. Awning—Foundations.

NOTE: Authority cited: Sections 18300 and 18552, Health and Safety Code. Reference: Section 18552, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1730. Awning—Enclosures.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment of subsections (a), (e) and (h) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1732. Awning and Carport—Location.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1734. Carport—Permitted.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1735. Carport—Enclosures.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552 and 18610, Health and Safety Code.

HISTORY

1. Amendment filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1736. Accessory Buildings and Structures—Maintenance.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Repealer filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1738. Substandard Mobile Home Accessory Buildings and Structures.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1738 to section 1608 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1740. Abatement.

NOTE: Authority cited: Section 18300, Health and Safety Code. Reference: Sections 18552, 18610, Health and Safety Code.

HISTORY

1. Renumbering of former section 1740 to section 1610 filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 11. Informal Conferences and Formal Appeals

§ 1750. Application and Scope.

(a) The provisions of this article apply to the informal and formal procedures available to a cited person, as defined by section 1002 of this chapter, who has received a notice of a violation issued by the enforcement agency pursuant to section 18420 of the Health and Safety Code.

(b) None of the procedures for an informal or formal appeal process extend the time allowed for the correction of violations noted in the original notice of violation or noted in subsequent notices of violation issued to the same person or about the same situation unless:

(1) an extension of time allowed for the correction of violations is contained in the written determination provided by the enforcement agency pursuant to subsection 1754(b), or

(2) an extension of the time allowed for the correction of violations is contained in the final, formal decision issued by an enforcement agency pursuant to subsection 1756(f).

NOTE: Authority cited: Sections 18300 and 18421, Health and Safety Code. Reference: Sections 18420 and 18421, Health and Safety Code.

HISTORY

1. Repealer of Article 11 (Sections 1750–1778, not consecutive) filed 8–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 36).
2. New article 11 and section filed 4–17–95; operative 5–17–95 (Register 95, No. 16).
3. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1752. Request for Informal Conference.

(a) The following optional, informal conference process shall be available to a person who is required to respond to a notice of violation issued pursuant to section 18420 of the Health and Safety Code, and shall be initiated solely at the discretion of the person addressed in the notice of violation.

(b) The use of the informal conference process shall be limited to the dispute of one or more of the following issues contained in a notice of violation:

(1) The existence of one or more alleged violations,

(2) The alleged failure to correct the violations in the required time frame, and

(3) The reasonableness of the time frame within which the violations shall be corrected.

(c) If a person is in receipt of a notice of violation and chooses to request an informal conference with a representative of the enforcement agency,

(1) the person shall make a written request to the enforcement agency for an informal conference, and

(2) the person shall ensure that the enforcement agency receives the written request within ten (10) working days of the notice of violation.

(d) The written request for an informal conference shall provide the following information:

(1) The name, address, and telephone number of the person requesting the informal conference, and

(2) A brief description of the issues disputed.

(e) Within three (3) working days of the receipt of a written request for an informal conference, the enforcement agency shall contact the person who submitted the request and shall schedule an informal conference for the earliest possible, mutually convenient time and place. The informal conference shall occur during the normal working hours and shall be held no later than fifteen (15) working days after the enforcement agency's receipt of the written request. "Normal working hours" are from 8:00 a.m. to 5:00 p.m. on Monday through Friday, excluding holidays.

(f) The enforcement agency shall deny a request for an informal conference only if one (1) or more of the following conditions apply:

(1) The issues identified for dispute in the written request do not include at least one (1) of the issues specified in subsection (b), or

(2) The person requesting the informal conference is not available to meet with the representative of the enforcement agency within the fifteen (15) day time period and the enforcement agency determines that good cause does not exist to postpone the informal conference.

NOTE: Authority cited: Sections 18300 and 18421, Health and Safety Code. Reference: Sections 18420 and 18421, Health and Safety Code.

HISTORY

1. New section filed 4–17–95; operative 5–17–95 (Register 95, No. 16).
2. Amendment filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1754. Informal Conference.

(a) An informal conference related to a violation shall occur at the time and place scheduled and shall provide the person requesting the conference with the opportunity to explain to the representative of the enforcement agency each issue disputed and the facts and circumstances of each dispute.

(b) Within five (5) working days of the completion of the informal conference, the enforcement agency shall provide a written notification of its determination, to the person who requested the conference.

(c) The written determination shall sustain, overrule, or modify the original notice of violation that contained each issue disputed at the informal conference. Modification may include:

(1) changes to the original violation cited,

(2) where necessary to provide a reasonable time for compliance, an extension of the time within which the modified required corrective action shall be completed. The extension of time shall not exceed thirty (30) calendar days, or such longer period of time allowed by the enforcement agency, from the date of the enforcement agency's written determination or greater period of time as determined by the enforcement agency.

(d) The written request for an informal conference shall be considered withdrawn if the person who submitted the request:

(1) does not appear at the mutually–agreed upon time and place scheduled for the informal conference, and

(2) does not notify the enforcement agency, within five (5) calendar days prior to the date on which the informal conference was scheduled, with written confirmation of the good–cause reason for not appearing at the informal conference.

(e) If the enforcement agency determines that good cause exists for a postponement, the enforcement agency shall postpone an informal conference for a period of time not to exceed fifteen (15) working days and shall notify the person in writing of the time and date of the postponed conference. Otherwise, the agency shall confirm the automatic withdrawal and, if applicable, the denial of the request due to a lack of a good cause reason, as determined by the enforcement agency.

NOTE: Authority cited: Sections 18300 and 18421, Health and Safety Code. Reference: Sections 18420 and 18421, Health and Safety Code.

HISTORY

1. New section filed 4–17–95; operative 5–17–95 (Register 95, No. 16).
2. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1756. Request for Appeal of Decision Rendered in Informal Conference.

(a) Any park owner or operator, or any registered owner of a unit, who has received notice of violation issued pursuant to section 18420 of the Health and Safety Code, has the right to petition for a formal hearing with the person in charge of the enforcement agency or that person's designee.

(b) The person requesting the formal hearing shall submit a written petition to the enforcement agency:

(1) within ten (10) working days of the date of the notice of violation, or

(2) within five (5) working days of the date of the enforcement agency's written determination, if the issues were disputed at an informal conference.

(c) The written petition shall:

(1) provide the name, address, and phone number of the petitioner,

(2) provide the petitioner's reasons for requesting a formal hearing,

(3) summarize each issue to be disputed at the formal hearing, and

(4) state the remedy the petitioner is seeking.

(d) Upon receipt of the petition, the enforcement agency shall set a time and place for the formal hearing and shall provide the petitioner with written notice of the scheduled hearing.

(1) The formal hearing shall commence within ten (10) working days of the date of the petition.

(2) The petitioner shall have the right to apply for the postponement of the date of the formal hearing for a reasonable amount of time. The petitioner shall provide a good cause reason for the request.

(3) The enforcement agency shall grant a request for postponement if it determines that the petitioner has good–cause reason for the postponement.

(e) The formal hearing shall provide the petitioner with the opportunity to be heard and to show cause why the notice of violation should be modified or withdrawn.

(1) The petitioner shall be entitled to call witnesses to testify at a formal hearing.

(2) The petitioner shall be entitled to be represented by legal counsel at a formal hearing.

(f) Within ten (10) working days of the formal hearing, the enforcement agency shall provide in writing a final, formal order to the petitioner. The final, formal order shall:

(1) sustain, modify, or withdraw the notice of violation issued pursuant to section 18420 of the Health and Safety Code; and

(2) clearly state the enforcement agency's findings upon which the final, formal order is based.

NOTE: Authority cited: Sections 18300 and 18421, Health and Safety Code. Reference: Sections 18420, 18421 and 18513 Health and Safety Code.

HISTORY

1. New section filed 4–17–95; operative 5–17–95 (Register 95, No. 16).
2. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 1758. Petition to Review Order of Local Enforcement Agency Following Formal Hearing.

(a) A mobilehome park owner or operator, or the registered owner of a unit who:

(1) has received a notice of violation issued pursuant to Health and Safety Code section 18420 by an enforcement agency other than the department; and

(2) has received a final, formal order from the enforcement agency following a formal hearing, shall be entitled to petition the department to review and investigate, as necessary, the enforcement activities of the local enforcement agency.

(b) The petition shall be in writing and shall include the following:

(1) a copy of the original notice of violation;

(2) a copy of the enforcement agency's written determination, if an informal conference was held;

(3) a copy of the enforcement agency's final, formal order; and

(4) a clear, concise explanation of the issues that the petitioner continues to dispute.

(c) The department shall consider the petition in conjunction with the department's responsibility to monitor local enforcement activity pursuant to subdivision (d) of section 18306 of the Health and Safety Code.

(1) Within sixty (60) working days of the receipt of the petition, the department shall review the petition and provide the petitioner with written notice of whether the activities of the local agency require investigation by the department.

(2) If the department has determined that the activities of the local agency require investigation by the department, the written notice to the petitioner shall provide a time frame for the investigation.

(3) If the department investigates the enforcement activities of a local agency in response to one (1) or more petitions provided pursuant to subsection (a), the department shall notify each petitioner within sixty (60) days of the results of the department's investigation.

(d) If the department finds that the notice of violation, written determination, and/or final, formal order issued by the local enforcement agency reflect(s) nonenforcement of the law, the department shall initiate corrective action pursuant to the provisions of subdivision (d) of section 18300 of the Health and Safety Code.

(e) A petition filed pursuant to this section shall not extend the time for correction of the violation as provided in the original or any subsequent notice of violation issued by the local enforcement agency unless the department, based on the petition and materials submitted with the petition, determines there is a high likelihood that the local enforcement agency was incorrect in issuing the notice of violation.

NOTE: Authority cited: Sections 18300 and 18421, Health and Safety Code. Reference: Sections 18306, 18420 and 18421, Health and Safety Code.

HISTORY

1. New section filed 4–17–95; operative 5–17–95 (Register 95, No. 16).
2. Amendment of section and NOTE filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Subchapter 2. Special Occupancy Parks

HISTORY

1. Repealer of subchapter 2 (articles 1–9, sections 2000–2860) filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28). For prior history, see Register 85, No. 36.

* * *

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CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Division 1. Housing and Community Development

Chapter 2.2. Special Occupancy Parks

Vol. 33

THOMSON
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Chapter 2.2. Special Occupancy Parks

Article 1. Administration and Enforcement

§ 2000. Application and Scope.

(a) Except as otherwise explicitly provided in sections 18865(g), 18865.4, and 18865.5(b), Health and Safety Code, the provisions of this chapter shall apply to the construction, use, maintenance and occupancy of special occupancy park lots, including separate designated sections within mobilehome parks, permanent buildings, accessory buildings or structures, and building components wherever located, both within and outside of special occupancy parks, in all parts of the state. These provisions shall also apply to the use, maintenance and occupancy of recreational vehicles and the installations for supplying fuel gas, water, electricity and the disposal of sewage from accessory buildings or structures, building components, and recreational vehicles, wherever located within special occupancy parks in all parts of the state.

(b) Provisions that apply to mobilehome parks are located in Title 25, California Code of Regulations, Division 1 chapter 2 of this division.

(c) Mobilehomes or manufactured homes, and their accessory buildings or structures, located in special occupancy parks in accordance with section 2118, shall comply with the requirements contained in chapter 2.

(d) Existing construction, connections, and installations of units, accessory buildings and structures, building components, plumbing, electrical, fuel gas, fire protection, earthquake resistant bracing, and permanent buildings made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18613, 18865.3, 18865.4, 18871.3, 18871.10, 18872, 18872.2, 18873, 18873.1, 18873.2, 18873.3, 18873.4 and 18873.5, Health and Safety Code.

HISTORY

1. New Chapter 2.2 (articles 1–11, sections 2000–2758), article 1 (sections 2000–2050) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2002. Definitions.

In addition to the definitions contained in this section which apply only to this chapter, the definitions contained in sections 18860–18874 of the Health and Safety Code and those definitions relating to building standards contained in Title 24, California Code of Regulations Parts 2, 3, 4 and 5, are also applicable to the requirements of this chapter.

(a) –A–

(1) Accessory building or structure. Any awning, window awning, cabana, ramada, storage cabinet, storage building, carport, fence, stairway, ramp, or porch, or any other building or structure other than a patio established for the use of the occupant of a unit on a lot.

(2) Approved. Reviewed and/or inspected and deemed acceptable to the enforcement agency.

(3) Architect. A person licensed by the State of California, qualified to practice architecture in this state. For purposes of this chapter, an architect designing or approving plans shall have skill, knowledge, and expertise in that scope of practice.

(4) Awning. An accessory structure, used for shade or weather protection, constructed of cloth, canvas or other flexible material supported by one or more posts or columns and partially supported by the unit installed, erected, or used on a lot.

(5) Awning Enclosure. An enclosure designed for outdoor recreational purposes, not for habitation, constructed under an awning or freestanding awning, which may include a screen room, and either an accessory building or structure, or a building component.

(6) Awning, Freestanding. An accessory structure, used for shade or weather protection, supported entirely by columns or posts and, other than with flashing, not attached to or supported by a unit or other accessory structure.

(7) Awning, Window or Door. An accessory structure, used for shading a window or door, supported wholly by the unit or other accessory building or structure to which it is attached.

(b) –B–

(1) Branch Water Service Line. That portion of the water distribution system extending from the park water main to a lot, including connections, devices and appurtenances.

(2) Building Components. Any subsystem, subassembly, or other system, constructed or assembled in accordance with the provisions of California Factory–Built Housing Law, contained in the California Health and Safety Code commencing with section 19960, designated for use in, or as part of, an accessory building or structure, which may include structural, mechanical, electrical, plumbing, and fire–protection systems and other systems affecting health and safety. However, building components do not include appliances or equipment such as heaters, stoves, refrigerators, or air conditioners which have been listed and labeled by an approved listing agency.

(3) Building Standard. Any rule, regulation, or other requirement adopted by the Building Standards Commission or a local government pursuant to section 17958.5 of the Health and Safety Code pertaining to the construction, plumbing, electrical, and fuel gas equipment, and installations within permanent buildings in parks.

(c) –C–

(1) Cabana. A freestanding accessory building or structure, or building component of an MH–unit, located immediately adjacent to and intended to increase the living area of that unit, which is a portable, demountable, or permanent room enclosure or other building erected or constructed for habitation. A cabana shall not exceed the size of the unit to which it is an accessory.

(2) California Building Code. California Code of Regulations, Title 24, Part 2, as adopted and published by the California Building Standards Commission.

(3) California Electrical Code. California Code of Regulations, Title 24, Part 3, as adopted and published by the California Building Standards Commission.

(4) California Fire Code. California Code of Regulations, Title 24, Part 9, as adopted and published by the California Building Standards Commission.

(5) California Mechanical Code. California Code of Regulations, Title 24, Part 4, as adopted and published by the California Building Standards Commission.

(6) California Plumbing Code. California Code of Regulations, Title 24, Part 5, as adopted and published by the California Building Standards Commission.

(7) Camping Area. Any area or tract of land where one or more lots or campsites are rented or leased or held out for rent or lease to accommodate camping parties.

(8) Camping Cabin. A relocatable hard–sided shelter, for use by a camping party, as defined in Health and Safety Code section 18862.5. All camping cabins are dependent units.

(9) Camping Party. A person or group of not more than ten (10) persons occupying a campsite or camping cabin for not more than thirty (30) days annually.

(10) Campsite. A designated area or lot within an incidental camping area used for occupation by a camping party.

(11) Carport. An accessory structure, used for shade or weather protection for a vehicle or vehicles which shall be freestanding.

(12) Cited Person. A person or entity issued a notice of violation for a violation of this chapter or applicable laws who is responsible for its correction.

(13) Combustible. As applied to building construction is any material or construction which does not meet the criteria of noncombustible as defined in subsection (n) of this section.

(14) Common Area. An area, within the boundaries of the park, that is not specific to any lot or space and is under the ownership and control of the park.

(15) Commercial Modular. "Commercial modular" means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is required to be moved under permit, and shall include a trailer coach as defined in section 635 of the Vehicle Code. "Commercial coach" has the same meaning as "commercial modular" as that term is defined in section 18001.8 of the Health and Safety Code.

(16) Concrete Block Pier. An assembly of load–bearing, concrete blocks with wooden wedges used to level a unit.

(17) Concrete Pier. A concrete load–bearing support that incorporates into its structure an adjustable means of raising and leveling the unit.

(18) Contractor. Any person as defined in Business and Professions Code sections 7026 through 7026.3.

(d) –D–

(1) Department. The Department of Housing and Community Development.

(2) Dependent Unit. A unit not equipped with a toilet and sewage disposal system. All camping cabins are dependent units.

(3) Drain Connector. The extension from the unit's or accessory building's or structure's drain outlet, to the lot's drain inlet.

(4) Drain Outlet. The discharge end of a unit's or accessory building's or structure's sewage drainage system.

(5) Dry Camp. A camping area where a supply of potable water is unavailable within the camping area.

(e) –E–

(1) Electrical Service, Park. The conductors and equipment for delivering electrical energy from the electrical supply system or the generator of an isolated plant. to the electrical wiring system of the park.

(2) Electrical System, Park–Primary. That part of the electrical wiring system of the park distributing electrical energy to the park's secondary electrical system.

(3) Electrical System, Park–Secondary. That part of the electrical wiring system of the park distributing electrical energy at a nominal 120 or 120/240 volts, single phase.

(4) Electrical Wiring System, Park. All of the electrical equipment, appurtenances and related electrical installations outside of permanent buildings, units, and accessory buildings or structures within a park.

(5) Emergency. An occurrence constituting a current or imminent serious risk to life, health, safety, or property requiring immediate correction.

(6) Energize. The act of applying electrical energy, or gas or water pressure.

(7) Enforcement Agency. The Department of Housing and Community Development, or any city, county, or city and county that has assumed responsibility for the enforcement of this chapter and chapter 2 pursuant to sections 18300 and 18865 of the Health and Safety Code.

(8) Engineer. A person registered with the State of California as a professional engineer qualified to practice engineering in this state. For purposes of this chapter, an engineer designing or approving plans shall have skill, knowledge, and expertise in that scope of practice.

(9) Equipment. All materials, appliances, devices, fixtures, fittings, or accessories used in the structural, fire safety, plumbing, mechanical, and electrical systems of units, buildings, structures, infrastructures and systems subject to this chapter.

(f) –F–

(1) Feeder. The conductors for conveying electrical energy between any two points in the park's electrical wiring system excluding electrical feeder assemblies.

(2) Fence. A freestanding vertical wall structure

(3) Fire Agency. A city, county, or city and county fire department, or fire district.

(4) Fire Hydrant. A connection to a water source for the purpose of supplying water to a fire hose or other fire protection apparatus and, for the purposes of this chapter, includes a standpipe.

(5) Fire Hydrant, Private. A fire hydrant including wet standpipes owned by the park.

(6) Fire Hydrant System. All fire hydrants, water piping, pumps, tanks, and valves attached to the water system supplying the hydrants.

(7) Footing. The portion of a support, in direct contact with the ground, that distributes imposed loads to the soil.

(8) Forms

(A) Annual Permit To Operate (local enforcement agency), HCD 503B, dated 01/07.

(B) Application For Alternate Approval, HCD 511, dated 7/04.

(C) Application For Certification Of Manufactured Home Or Mobilehome Earthquake Resistant Bracing System, HCD 50 ERBSCERT, dated 7/04.

(D) Application For Permit To Construct, HCD 50, dated 7/04.

(E) Application For Permit To Operate, HCD 500, dated 7/04.

(F) Application For Standard Plan Approval, HCD 520, dated 7/04.

(G) Certificate of Occupancy, HCD 513C, dated 7/04.

(H) Floodplain Ordinance Compliance Certification For Manufactured Home/Mobilehome Installations, HCD 547, dated 7/04.

(I) Manufactured Home or Mobilehome Installation Acceptance (Local Enforcement Agency), HCD 513B, dated 7/04.

(J) Manufactured Home or Mobilehome Installation Acceptance, HCD 513A, dated 7/04.

(K) Permit To Operate (local enforcement agency), HCD 500A, dated 7/04.

(L) Plot Plan, HCD 538, dated 7/04.

(M) Private Fire Hydrant Test And Certification Report, HCD MP 532, dated 01/07.

(N) School Impact Fee Certification, HCD MP 502, dated 1/04.

NOTE: The use of existing forms shall be permitted until supplies are exhausted.

(g) –G–

(1) Gas Connector. A flexible connector, listed for exterior use, to convey gas from a gas riser outlet to the gas supply connection of a unit.

(2) Gas Piping System, Park. The pipe equipment and related installations outside of permanent buildings, units, or accessory buildings or structures, for distributing gas throughout the park.

(3) Gas Riser Outlet. That portion of a park gas lateral or gas piping system, extending above ground, serving a lot.

(4) Gas Service Lateral. The pipe, or that portion of a gas piping system, extending from the main park gas line to the individual gas outlet serving a lot.

(5) Good Cause. What the enforcement agency would find to be a reasonable basis for failing to appear at the time and place scheduled for a hearing, informal conference, formal hearing, or for not complying with a specified timeline.

(6) Gross Floor Area. The floor area enclosed within the surrounding exterior walls of a unit, accessory building or structure, or portions thereof. Where there are no walls, "Gross Floor Area" means the usable area contained within the horizontal projection of the roof and floor.

(7) Guardrail. A vertical barrier erected along the open edges of a porch or other elevated area to prevent persons from falling to a lower level.

(h) –H–

(1) Habitable Room or Structure. Any structure or room within a structure meeting the requirements of this chapter for sleeping, living, cooking, or dining purposes, excluding such enclosed spaces as awning enclosures, closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, unfinished cellars, utility rooms, and similar spaces.

(2) Handrail. A railing provided for grasping with the hand for support, erected along one or more edges of a stairway or ramp.

(3) Hearing Officer. The authorized representative of the enforcement agency, or other official authorized to conduct hearings.

(i) –I–

(1) Independent Unit. A unit equipped with a toilet and designed to be connected to a lot sewer inlet.

(2) Identification Label. A decal, tag, or label indicating acceptance by the department of a standard plan for an accessory building or structure.

(3) Incidental Camping Area. Any area or tract of land where camping is incidental to the primary use of the land for agriculture, timber management, or water or power development purposes, and where two or more campsites used for camping are rented or leased or held out for rent or lease. The density of usage shall not exceed 25 camping parties within a radius of 265 feet from any campsite within the incidental camping area.

(4) Insignia or Label of Approval. A tag or label issued pursuant to Health and Safety Code section 18027.3 or 18027.5 and permanently affixed to the unit indicating compliance with applicable regulations of the department or with the American National Standards Institute standards A119.2 or A119.5.

(j) –J–

Reserved

(k) –K–

Reserved

(*l*) –L–

(1) Landing, Stairway. An individual platform, not to exceed twelve (12) square feet, usually at the top or bottom of a stairway, to ease the transition from a stairway to a level walking surface. Landings for ramps must comply with requirements in the California Building Code.

(2) Listed. All equipment, materials, products, and installations included in a list published by an approved listing agency.

(3) Listing Agency. An independent agency approved by the department that:

(A) is in the business of listing and labeling equipment, materials, products, or installations; and

(B) maintains a periodic inspection program on current production of listed equipment, materials, or products or periodic evaluations of listed installations; and

(C) makes available at least annually a published report of listings that include specific information about the nationally recognized standard with which each item complies and the manner in which the item is safe for use, or information about the listed equipment, material, product, or installation that has been tested and found suitable for use in a specified manner.

(4) Load. Any of the forces that a structure is designed to withstand, including any permanent force such as the weight of a roof, known as a dead load; any moving or temporary force, such as the weight of occupants, known as a live load; wind loads imposed by wind activity; and seismic loads imposed by seismic activity.

(5) Lot Access. An unobstructed way or means of approaching a roadway or public thoroughfare to or from a lot.

(6) Lot Electrical Service Equipment, Park. That equipment containing the means to connect or disconnect, overcurrent protective devices and receptacles, or other means for supplying a unit, listed appliance, accessory building or structure, or building component, to or from the park's electrical supply.

(7) Lot Line Change. The alteration, movement, or shifting of a lot line for an existing lot.

(8) Lot Line Creation. The initial establishment of a lot line for a new lot.

(9) Lot Water Service Outlet, Park. That portion of the park's water distribution system, including equipment and devices, provided with a fitting for connecting a unit's water connector.

(m)–M–

(1) MH–unit. A term, as used in this chapter, to replace references to "mobilehome, manufactured home, and multifamily manufactured home."

(2) Manufactured Home. A structure as defined by Section 18007 of the Health and Safety Code.

(3) Mobilehome. A structure as defined by section 18008 of the Health and Safety Code.

(4) Multifamily Manufactured Home. A structure as defined by section 18008.7 of the Health and Safety Code. "Multi–unit manufactured housing" has the same meaning as "multifamily manufactured home", as that term is defined by section 18008.7 of the Health and Safety Code.

(n) –N–

(1) N.F.P.A. An acronym for the National Fire Protection Association.

(2) Noncombustible. As applied to building construction is any material which meets the criteria for "noncombustible" as specified in section 215 of the California Building Code.

(3) Nuisance. A "nuisance" is as defined in Civil Code section 3479; a "private nuisance" is as defined in Civil Code section 3481; and a "public nuisance" is as defined in Civil Code section 3480 and Penal Code section 370.

(o) –O–

(1) Occupant. For the purposes of this chapter, a person who lawfully occupies a unit on a lot.

(2) Occupied Area. The total of all the space occupied by a unit, including eave overhangs and projections; building components; and all accessory buildings or structures, on a lot.

(3) Operator. The person or entity to whom a permit to operate is issued by the enforcement agency.

(4) Owner. The person or entity that legally owns or possesses an item, property, or business through title, lease, registration or other legal document.

(p) –P–

(1) Park. For purposes of this chapter, is any special occupancy park.

(2) Park Trailer. A recreational vehicle as defined in Health and Safety Code section 18009.3.

(3) Patio. A paved or raised area not to exceed eight (8) inches in height, used for access or recreational activities.

(4) Permanent Building. Any permanent structure under the control and ownership of the park owner or operator which is not on a lot and is expressly used in the operation of the park such as for the park office, a community center, or park storage facilities.

(5) Permit to Operate. A permit issued annually by the enforcement agency authorizing operation of a park.

(6) Pier. A vertical support constructed of concrete, steel, or concrete block for the transmission of loads from a unit, accessory building or structure, or building component, to a footing. A pier does not include the footing.

(7) Porch. A freestanding, outside walking platform with an area exceeding twelve (12) square feet, having any portion of the floor or deck surface elevated more than eight (8) inches above grade.

(8) Power Supply Cord. A flexible cord assembly of conductors, including a grounding conductor, connectors, attachment plug cap, and all other fittings, grommets or devices, designed for the purpose of delivering electrical energy from the park's lot electrical service equipment to the branch circuit distribution panelboard of the unit.

(9) Private Fire Hydrant. See "Fire Hydrant, Private".

(q) –Q–

Reserved

(r) –R–

(1) Ramada. Any freestanding roof, or shade structure, installed or erected above a unit or accessory building or structure or any portion thereof.

(2) Ramp. An accessory structure providing a sloping path of travel, intended for pedestrian traffic.

(3) Recreational Vehicle. A vehicle as defined in section 18010 of the Health and Safety Code and includes a park trailer, as defined in section 18009.3 of the Health and Safety Code

(4) Registered Owner. A person registered by the appropriate department as the owner of the unit.

(5) Resident. For the purposes of this chapter, a person who lawfully occupies a lot.

(6) Responsible Person. For purposes of this chapter, any of the following:

(A) The park owner or operator for park–owned property or facilities.

(B) An available person, employed by the park for emergencies, as defined in section 18871.8 of the Health and Safety Code.

(C) Any person or entity that obtains a permit to construct.

(D) The owner of a unit, accessory building or structure, or building component.

(7) Retaining Wall. A wall designed to resist the lateral displacement of soil or other materials.

(8) Roadway. A thoroughfare for vehicular traffic within a park.

(s) –S–

(1) Sanitation Station, Recreational Vehicle. A plumbing receptor designed to receive the discharge of sewage holding tanks of self–contained recreational vehicles and which is equipped with a water hose connection for washing the receptor.

(2) Sewage Drain Lateral. That portion of the park drainage system that extends to an individual lot drain inlet.

(3) Sewage Drainage System. All the piping within or attached to the unit or accessory building or structure that conveys sewage or other liquid wastes to the drain outlet.

(4) Sewer, Park. That part of the park sewage drainage system beginning at the lot drain inlet or from a point two (2) feet downstream from a permanent building drain connection and terminating at the public sewer or private sewer disposal system.

(5) Shall. "Shall" means required and includes "must" and "will".

(6) Skirting. Material used to enclose or partially enclose the area under a unit or accessory building or structure.

(7) Standard Plan Approval (SPA). A plan approved by the department, for an accessory building or structure or a commercial modular foundation system to be installed or constructed on a repetitive basis, for the purpose of obtaining a construction permit through an enforcement agency.

(8) Stairway. A step or any configuration of steps or risers where the run (length) of an individual tread or step does not exceed thirty (30) inches, and which is designed to enable passage from one elevation to another.

(9) Steel Pier. A steel support that incorporates into its structure an adjustable means of raising and leveling the unit or accessory building or structure that the pier supports.

(10) Storage Building. An accessory building that may exceed ten (10) feet in height or one hundred twenty (120) square feet of gross floor area located on a lot, designed and used solely for storage of the personal equipment and possessions of the unit's occupants. The construction of a storage building shall comply with the California Building Standards Code, and a permit to construct is required from the enforcement agency.

(11) Storage Cabinet. An accessory structure, not exceeding ten (10) feet in height or one hundred twenty (120) square feet of gross floor area, located on a lot, designed solely for the use and storage of the personal equipment and possessions of the unit's occupants.

(12) Support. The entire pier and footing assembly, used to transfer the loads of a unit, accessory building or structure, or building component to the ground.

(13) Support System. A system of supports, which sustains the vertical loads of a unit, accessory building or structure, or building component. A support system does not include a foundation system.

(t) –T–

(1)Technical Service. The providing of interpretation and clarification by the enforcement agency of technical data and other information relating to the application of this chapter.

(2) Temporary Recreational Vehicle Park. Any area or tract of land where two (2) or more lots are rented or leased or held out for rent or lease to owners or users of recreational vehicles and which is established for one (1) operation not to exceed eleven (11) consecutive days, and is then removed.

(3) Tent. Any enclosed structure or shelter fabricated entirely or in major part of cloth, canvas, or similar material supported by a frame.

(4) Tent Camp. An area or tract of land where two (2) or more lots or sites are rented or leased or held out for rent or lease for the exclusive use of tent campers.

(5) Testing Agency. An organization which:

(A) Is in the business of testing equipment and installations;

(B) Is qualified and equipped for such experimental testing;

(C) Is not under the jurisdiction or control of any manufacturer or supplier for any affected industry;

(D) Maintains at least an annual inspection program of all equipment and installations currently listed or labeled.

(E) Makes available a published directory showing current listings of manufacturer's equipment and installations which have been investigated, certified and found safe for use in a specified manner and which are listed or labeled by the testing agency; and

(F) Is approved by the department.

(u) –U–

(1) Unit. A manufactured home, mobilehome, multifamily manufactured home, recreational vehicle, or camping cabin.

(v) –V–

(1) Violation. A failure to conform to the requirements of this chapter, or any other applicable provision of law.

(w)–W–

(1) Water Connector. The flexible extension connecting the water distribution system of the unit or accessory building or structures to the park's lot water service outlet.

(2) Water Distribution System. All of the water supply piping within a park, extending from the main public supply or other source of supply to the park's lot water service outlets and including branch service lines, fittings, control valves, and appurtenances.

(3) Water Main, Park. That portion of the water distribution system which extends from the main, water meter, or other source of supply to the branch water service lines.

(4) Water Supply Connection. The fitting or point of connection of the unit's or accessory building or structure's water distribution system designed for connection to a water connector.

(5) Working Days. All days except Saturdays, Sundays, and applicable local, state and federal holidays.

(6) Workmanlike. Work performed to the acceptable quality of generally recognized industry standards that does not compromise strength, function, or durability.

(x) –X–

Reserved

(y) –Y–

Reserved

(z) –Z–

Reserved

NOTE: Authority cited: Sections 18865, 18865.05 and 18873, Health and Safety Code. References: Sections 18007, 18008, 18008.5, 18008.7, 18009.3, 18010, 18013.4, 18861, 18862, 18862.15, 18862.33, 18862.35, 18866.3, 18871.4, 18872, 18872.2, 18873, 18873.1, 18873.2, 18873.3, 18873.4, 18873.5 and 18909, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of section and NOTE filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of subsection (c)(15) and HISTORY 2 (Register 2005, No. 33).
4. Amendment of subsections (a)(3), (e)(8), (f)(8)(M) and (s)(8) and amendment of NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).
5. Change without regulatory effect amending subsection (m)(1), adding subsections (m)(2)–(4) and amending subsection (u)(1) filed 7–14–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 29).

§ 2003. Manufactured Homes and Mobilehomes.

Whenever a mobilehome or manufactured home, or an accessory building or structure related thereto, is installed pursuant to section 2118 in a park, the installation, use, maintenance, and occupancy shall comply with the requirements of chapter 2, commencing with section 1000 of this division.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

[The next page is 84.3.]

§ 2004. Local Enforcement.

(a) Assumption of responsibility for the enforcement of Parts 2.1 and 2.3 of Division 13, of the California Health and Safety Code and the provisions of Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2 relating to enforcement within parks by a city, county, or city and county, shall be by means of an ordinance of the city council or board of supervisors which shall contain the following information and be subject to department approval:

(1) Indication of assumption of responsibility for enforcement of Parts 2.1 and 2.3 of Division 13 of the Health and Safety Code, and the provisions of Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2.

(2) Name of the agency or agencies delegated enforcement responsibilities.

(3) A statement that the designated local enforcement agency will provide qualified personnel necessary to enforce Parts 2.1 and 2.3 of Division 13 of the Health and Safety Code, and the provisions of Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2 consistent with those laws and regulations. The statement shall include the total number of personnel assigned to the enforcement program.

(4) One copy of any contract, memorandum of understanding, or other document governing delegation of responsibilities and services to a local government agency other than the local government assuming responsibility for Parts 2.1 and 2.3 of Division 13 of the Health and Safety Code and Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2.

(5) Adoption of the applicable schedule of fees contained in the provisions of Parts 2.1 and 2.3 of Division 13 of the Health and Safety Code, and Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2.

(A) A statement adopting the state program and objectives as contained in Parts 2.1 and 2.3 of Division 13 of the Health and Safety Code, and Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2.

(B) A description of existing parks within the local jurisdiction, including conditions and type of park.

(C) Specific local objectives, program plan and timetable designed to achieve enforcement compliance.

(6) Effective date of assumption of enforcement.

(b) One certified copy of the ordinance shall be forwarded to the Administrative Office of the Division of Codes and Standards, P.O. Box 1407, Sacramento, CA 95812–1407 not less than thirty (30) days before the designated effective date of assumption of enforcement.

(c) A statement that the following forms provided by the department will be used:

(1) HCD 500A, Application for Permit to Operate;

(2) HCD 503B, Annual Permit to Operate.

(d) The department shall determine the local agency's knowledge and ability to apply the requirements of Title 25, California Code of Regulations, Division 1, Chapters 2 and 2.2, and the applicable Health and Safety Code requirements. The department's determination may include, but is not limited to, verification of the local agency's ability and knowledge through performance of activities that may include inspection, records review, and interviews of assigned personnel.

(e) Upon completion of the transfer, the new enforcing agency shall notify, in writing, the parks within its jurisdiction of the change in enforcement and the designated department or departments responsible for enforcement and permit issuance.

(f) Every enforcement agency shall comply with the verification of eligibility to receive public benefit requirements of Title 25, California Code of Regulations, Division 1, Chapter 5.5, commencing with section 5802, of applicants for permits to operate mobilehome parks or special occupancy parks.

(g) Notwithstanding the provisions of section 2005.5, in order to ensure that the orderly transition of assumption of enforcement occurs when a park, or permanent building within a park, is under construction, the enforcement agency issuing the permit to construct shall retain enforcement authority for the specified project through completion of those permits. All other enforcement responsibilities shall be transferred on the date as determined by the department.

(h) The local enforcement agency shall send a copy of each permit to operate it has renewed, within thirty (30) days after renewal, to the department's Division of Codes and Standards, at the address designated by the department at the time of assumption.

(i) When a local enforcement agency proposes significant changes in the personnel responsible for enforcing the provisions of this chapter, Chapter 2 and sections 18200 through 18874 of the Health and Safety Code, that agency shall notify the department at least thirty (30) days prior to the proposed date of the changes. The department may perform a reevaluation to determine whether the personnel have the required knowledge and ability as required in subsection (d) of this section.

(j) When a local enforcement agency changes its address, phone number, or contact person, it shall notify the Administrative Office of the department in writing within thirty (30) days of the change.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18862.17, 18865, 18870.6 and 18870.7, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of section and NOTE filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2004.5. Complaint Investigations.

(a) When a complaint alleging violations of this Chapter, Chapter 2 or Sections 18200 through 18700 and 18860 through 18874 of the Health and Safety Code is referred to a local enforcement agency, the agency shall do the following:

(1) Make reasonable efforts to contact the complainant to discuss the complaint. If the issue addressed within the complaint exceeds the authority or jurisdiction of the enforcement agency, the complainant shall be so advised, and shall be directed, when possible, to the appropriate governing entity.

(2) Investigate allegations of violations representing an immediate risk to life, health, or safety within five (5) days of receipt of the complaint by the agency.

(3) Investigate allegations of violations representing an unreasonable risk to health or safety within thirty (30) days of receipt by the agency.

(4) Discuss the results of the investigation with the complainant, or provide the results in writing, if requested by the complainant.

(b) When a complaint is referred to a local enforcement agency from the Office of the Mobilehome Ombudsman (Office), the local enforcement agency shall, no later than thirty–five (35) days following its receipt of the complaint, submit a written report detailing the final results of the investigation to the Office, or its designee.

(c) When an inspection as a result of a health and safety complaint results in a written order to correct for a violation of this chapter and a reinspection reveals that the cited person failed to correct the violation, the enforcement agency shall be compensated by the person responsible for correction of violation for any subsequent reinspection to verify correction of the violation at the following hourly rate.

(1) one hundred ninety–six dollars ($196) provided the reinspection does not exceed one hour. When the reinspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

NOTE: Authority cited: Sections 18153, 18300 and 18865, Health and Safety Code. Reference: Sections 18153, 18300, 18862.17, 18865, 18866 and 18866.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

2. New subsections (c)–(c)(1)(B) and amendment of NOTE filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 2005. Local Government's Cancellation of Enforcement Responsibility.

(a) An enforcement agency intending to relinquish responsibility for enforcement authority shall advise the department, no less than thirty (30) days prior to initiating the requirements of subsection (b).

(b) A governing body canceling its enforcement responsibility shall complete the following to the department's satisfaction before the transfer is effective:

(1) provide written notification to the department not less than thirty (30) days prior to the proposed effective date of the action, along with a copy of the ordinance repealing enforcement responsibility,

(2) remit the appropriate fees to the department as identified in section 2006 of this article on or before the date of transfer of responsibility.

(3) transfer all park records to the department on or before the effective date of the transfer of enforcement responsibility.

(c) When the local agency cancels its enforcement responsibility for this chapter, its responsibility for enforcement of chapter 2 of this division is also cancelled.

(d) When a local enforcement agency has canceled its assumption of responsibility for enforcement and desires to reassume enforcement, it must reapply in compliance with the requirements contained in section 2004 of this article.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18862.17 and 18865, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2005.5. Revocation of Local Enforcement Authority.

(a) When the department determines that a local enforcement agency has failed to properly enforce, parts 2.1 or 2.3, of division 13, of the Health and Safety Code or chapters 2 or 2.2 of this division, the department shall notify the governing body of the local enforcement agency by providing written documentation which identifies the deficiencies requiring correction.

(b) The local enforcement agency shall have thirty (30) days from the date it receives the department's written determination to initiate correction of the deficiencies. Initiation of correction shall mean:

(1) Completion of a written plan of action submitted to the department identifying the corrective action for each deficiency, including at least the following:

(A) Acknowledgement of the deficiencies.

(B) The action to be taken to correct each deficiency.

(C) The personnel involved in the correction.

(D) Timelines for completion of all corrections.

(E) Ongoing oversight to prevent reoccurrences of noted deficiencies.

(2) Implementation of the plan of action by the local enforcement agency and other actions required by the department prior to completion of the plan of action.

(c) The department shall, within thirty (30) days of receipt of the plan of action, review and provide a written response to the governing body regarding the proposed plan.

(d) If the local enforcement agency fails to prepare an adequate plan of action or implement corrective measures within thirty (30) days regarding the deficiencies specified in subsection (a), the department may revoke its approval of local assumption responsibility and resume enforcement responsibilities.

(e) Within thirty (30) days following the department's revocation of assumption approval, remit the appropriate fees as defined in section 2006 of this article and transfer all park records to the department.

(f) When a local enforcement agency has had its assumption of responsibility for enforcement revoked and desires to reassume enforcement, it must reapply in compliance with the requirements contained in section 2004 of this article.

NOTE: Authority cited: Sections 18300 and 18865, Health and Safety Code. Reference: Sections 18300 and 18865, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2006. Transfer of Authority — Disbursal of Fees.

(a) When a city, county, or city and county assumes responsibility for the enforcement of, parts 2.1 and 2.3, of division 13, of the Health and Safety Code and Title 25, California Code of Regulations, division 1, chapters 2 and 2.2, cancels its assumption of such responsibility, or has assumption approval cancelled by the department during the permit renewal year, that portion of the fees collected for the annual permits to operate, other than state fees pursuant to section 2008 of this article, shall be apportioned as follows:

(1) When assumption of enforcement responsibility occurs more than six (6) months preceding the next permit to operate renewal date, the former enforcement agency shall retain one–half of each annual permit to operate fee collected and shall transfer the remaining half to the assuming jurisdiction.

(2) When assumption of enforcement responsibility occurs less than or exactly six (6) months preceding the next permit to operate expiration date, the former enforcement agency shall then retain the full amount collected.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18865 and 18870.2, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2006.5. Permit to Operate Required.

(a) No person shall operate a park, or a portion of a park, or rent, lease, sublease, hire out, or let out for occupancy any new or existing lot in a park without a current permit to operate issued by the enforcement agency.

(b) Applications for a permit to operate a temporary recreational vehicle park shall be submitted to the enforcement agency at least thirty (30) days prior to the intended date of operation. Evidence of approvals from the local planning agency, health and fire departments and, if utilities are installed, the local utility companies shall be submitted with the application for the permit to operate.

(c) Application for a permit to operate an incidental camping area shall be on forms supplied by the enforcement agency, and shall be accompanied by two (2) sets of the following exhibits:

(1) A map or plot plan of the area or tract of land proposed to be used for incidental camping.

(2) A description of the facilities to be provided for the use of campers.

(3) A statement of the proposed use of the incidental camping area, which shall include:

(A) Approximate dates of occupancy, or a statement that the facility is intended to be operated year–round;

(B) Type of use intended, including use of recreational vehicles for camping purposes, if any;

(C) Number and type of sanitary facilities; and

(D) Maximum number of camping parties to be accommodated at any one time.

(4) Evidence of approval by local planning, health and fire departments.

(d) When the applicant proposes to construct or install common facilities for the use of campers, or to construct or install facilities to supply fuel gas, water or electricity to campers, or to dispose of sewage or waste from recreational vehicles, a permit to construct for such facilities shall first be obtained in accordance with the provisions of this article.

(e) When camping cabins are installed in a park, the lot number of cabins shall be recorded at the time of inspection and added to the comments

section of the park's permit to operate by the enforcement agency. An amended permit to operate is not required to be printed.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18870, 18870.1, 18870.2 and 18870.6, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2007. Applicant Documentation.

When applying for a permit to operate a park, or for the renewal or amendment of any such permit, if the applicant has not previously been determined to be eligible to receive public benefits, the applicant shall present to the enforcement agency such documentation as the department may require to demonstrate the applicant's eligibility to receive public benefits pursuant to chapter 5.5, beginning with section 5802.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Title 8, U.S.C. Sections 1621, 1641 and 1642; and Section 18865, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2008. Annual Permit to Operate Fees.

(a) Permit to operate fees shall be as follows:

(1) Annual permit to operate fee of twenty–five dollars ($25); and

(2) an additional two dollars ($2) per lot, or per campsite; and

(3) an additional four dollars ($4) per manufactured home or mobile-home lot; and

(4) A state fee as contained in Table 2008–1.

Table 2008–1

Number of Lots or Campsites	*State Fee*
2–19	$ 40
20–49	$ 75
50–99	$175
100–249	$400
250–499	$800
500 or more	$1,600

(b) The state fee is required to be paid annually.

(c) A permit to operate fee of twenty–five ($25), with no additional fee for the lots, is required to operate a temporary recreational vehicle park.

NOTE: Authority cited: Sections 18865 and 18870.2, Health and Safety Code. Reference: Sections 18870.2, 18870.3 and 18870.6, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2009. Permit to Operate — Penalty Fees.

(a) Permits to operate shall have the following penalty fees applied as applicable:

(1) When an application is submitted thirty (30) or more days late, the permit to operate fees shall be increased an amount equal to ten (10) percent of the established fee.

(2) When an application is submitted sixty (60) or more days late, the permit to operate fees shall be increased an amount equal to one hundred (100) percent of the established fee.

(3) Any park operating without a permit to operate shall pay double the established fees and those fees shall be due upon demand of the enforcement agency.

(b)The postmark shall be used to determine the submittal date for imposing annual permit to operate penalty fees prescribed by Health and Safety Code section 18870.7 and this section.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18870.7, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2010. Permit to Operate — Construction Completed.

(a) Upon final approval by the enforcement agency of the construction of lots and facilities, the applicant shall submit an application for permit to operate, or amended permit to operate, on a form designated by the department, together with appropriate fees as specified in sections 2008 and 2009 of this article, to the enforcement agency. The designated form shall be submitted as follows:

(1) When the department is the enforcement agency, the applicant shall submit the application for permit to operate to the department. Upon approval of the application by the department, an annual permit to operate shall be issued to the applicant.

(2) When a local enforcement agency has enforcement responsibilities, the applicant shall submit the application, to that agency. Upon approval of the application by the local enforcement agency, that agency shall provide one (1) copy of the approved application to the applicant and, within five (5) working days after approval, one (1) copy, along with the state fees required by section 2008 of this article, to the Division of Codes and Standards, P.O. Box 1407, Sacramento, CA 95812–1407. The Division of Codes and Standards shall issue the initial permit to operate within ten (10) working days of receipt of the approved application. The department shall provide copies of the permit to operate to the applicant and the local enforcement agency. Subsequent years' annual permits to operate shall be issued by the enforcement agency.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18870.2 and 18870.6, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2012. Department Copies of the Annual Permit to Operate and Related Fees.

(a) Local enforcement agencies shall send a copy of each issued annual permit to operate to the Division of Codes and Standards within thirty (30) days following issuance.

(b) All local enforcement agencies shall forward to the Division of Codes and Standards the state fees paid by the applicant pursuant to section 2008 of this article within thirty (30) days of receipt.

(c) The department shall provide a supply of the annual permit to operate forms and application for permit to operate forms to any local enforcement agency making a request for the forms.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18870.2, 118870.3, 18870.6 and 18870.7, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2014. Required Reporting of Changes in Park Status.

(a) An operator of a park shall submit to the enforcement agency an application for an amended annual permit to operate within thirty (30) days of any change in the information related to the annual permit to operate. Changes in information shall include, but not be limited to:

(1) change of name, mailing address, or ownership; or

(2) change in the number of lots resulting from the sale, lease, removal, construction, or alteration of existing lots or facilities; or

(3) change of conditional uses specified on the annual permit to operate; or

(4) when a snow load roof maintenance program status is changed pursuant to section 2338 of article 7.

(b) A fee of ten dollars ($10) shall be submitted to the enforcement agency with each application to amend the annual permit to operate. Only one (1) fee of ten dollars ($10) shall be required for an amended annual permit to operate, if more than one change can be processed on a single application.

(c) An amended permit to operate shall be issued only by the department initially for additional lots constructed on lots removed in an existing park. The local enforcement agency shall process the application as specified in section 2010 of this chapter for permit issuance for new construction.

(d) Notwithstanding subsection (c), when an amended permit to operate is issued by a local enforcement agency, a copy shall be forwarded to the department, within thirty (30) days, clearly marked as "Amended" on the face of the copy.

NOTE: Authority cited: Section 18865 and 18870.3, Health and Safety Code. Reference: Sections 18870.2, 18870.3, 18870.6 and 18870.8, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2016. Approval of Alternates and Equivalents.

(a) When the department is the enforcement agency, a request for approval of an alternate or equivalent means of meeting the requirements of this chapter shall be submitted by the applicant to the department's Northern or Southern area office.

(b) When a city, county, or city and county has assumed enforcement responsibility for this chapter, the applicant shall submit the request for this approval to the local enforcement agency. The local enforcement agency shall forward the request to the department's Administrative Office of the Division of Codes and Standards, along with their written recommendation and rationale for approval or denial.

(c) The request for an alternate approval shall be submitted on forms, as defined in Section 2002 of this chapter, provided by the department. The form shall be accompanied by one (1) set of substantiating plans and/or information together with the alternate approval fee of two hundred three dollars ($203), payable to the department.

(d) When a request for an alternate approval is for the park, or significantly affects property owned or operated by the park, including, but not limited to, grading, utilities and setbacks, only the park owner or operator may apply for the alternate approval.

NOTE: Authority cited: Sections 18865 and 18865.05, Health and Safety Code. Reference: Sections 18865.6 and 18870.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).
3. Amendment of section and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2017. Technical Service Fee.

(a) Fees for technical services provided by the enforcement agency shall be:

(1) one hundred ninety–six dollars ($196) provided the technical service does not exceed one hour. When the technical service exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

NOTE: Authority cited: Sections 18865 and 18870.3, Health and Safety Code. Reference: Sections 18870.3 and 18870.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 2018. Permits Required.

(a) No person shall erect, construct, reconstruct, install, replace, relocate or alter any building, structure, camping cabin, accessory building or structure, or building component; any electrical, mechanical, or plumbing equipment; any fuel gas equipment and installations, or fire protection equipment; or installations of, or within, a park, or a lot, or perform any non–load bearing grading or area fill with a depth of one (1) foot or greater, unless exempted from obtaining a grading permit pursuant to Appendix 33 of the California Building Code, without first obtaining a written construction permit from the enforcement agency.

(b) No person shall create or change a lot line within a park without first obtaining a permit from the enforcement agency pursuant to the requirements of section 2105 of this chapter.

(c) Any person issued a notice indicating violations pursuant to this section, shall obtain the required permit from the enforcement agency and provide the appropriate fees as prescribed in this article.

(d) The enforcement agency shall not require a permit to construct for the following work, when the construction is performed in a workmanlike manner, does not present a hazard, and otherwise complies with the requirements of this chapter:

(1) Minor maintenance and repair including replacement of existing utility metering devices.

(2) The installation of a storage cabinet on a lot.

(3) Construction or installation of a stairway having a landing twelve (12) square feet or less.

(4) A landing not more than twelve (12) square feet in area.

(5) Construction or installation of removable insect screening, flexible plastic canvas type material used as an awning or as awning or carport enclosures.

(6) Construction or installation of a retaining wall less than four (4) feet in height measured from the bottom of the footing to the top of the wall, unless it is supporting a surcharge. For the purpose of this section, a surcharge is any load imposed in addition to the normal soil load.

(7) Construction or installation of a patio, as defined in section 2002(p)(3).

(8) Fences not over six (6) feet high.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18870, 18870.8, 18872 and 18872.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of section and NOTE filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2020.3. Application Requirements for Permits for Accessory Structures and Camping Cabins.

(a) A person required to obtain a permit to install an accessory structure or camping cabin, shall submit an application for the permit to construct to the enforcement agency, on a form prescribed by that agency.

(b) The application for the permit to construct shall be accompanied by fees as specified in section 2020.7 of this article, or section 2020.4 when using plans with a standard plan approval.

(c) A person submitting an application for a permit to construct an accessory structure or install a camping cabin shall, in addition to the requirements of section 2034 of this chapter, submit three (3) copies of a plot plan for the lot where the accessory structure or camping cabin is to be constructed, on the form prescribed by the department, indicating the planned location of the accessory structure or camping cabin on the lot and all required dimensions and setbacks from the lot lines and structures on the same and adjoining lots. At least one (1) copy of the plot plan shall bear the original signature of the park owner or his or her designated representative.

(d) When a person files applications simultaneously to construct or install two (2) or more accessory structures or camping cabins which are identical and are within the same park, only one (1) plan check fee shall be required.

(e) If an application for a permit to construct is in complete or does not conform to this chapter, the enforcement agency shall notify the applicant in what respects application does not comply in writing within ten 10 working days of the date they are received by the department. The applicant shall resubmit a corrected application or plans within ninety (90) days of the notification, or within 90 days of any subsequent notification relating to a resubmittal, along with the resubmission fees required by subsections 2020.4 or 2020.7 of this chapter as applicable.

(f) A single permit may be issued for all accessory structures to be erected or installed concurrently on the same lot including electrical, mechanical and plumbing installations in each accessory structure. If the applicant requests individual permits, they may be obtained for structural, electrical, mechanical and plumbing installations, and are subject to separate individual fees.

NOTE: Authority cited: Sections 18865 and 18871.3, Health and Safety Code. Reference: 18865, 18870, 18870.5 and 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2020.4. Fees for Accessory Structure Permits With a Standard Plan Approval.

(a) The following permit fees shall apply for accessory structures that have a standard plan approval:

(1) Inspection Fee: One hundred ninety–six dollars ($196) provided the inspection does not exceed one hour. When the inspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

(2) Reinspection Fee: One hundred seventy–eight dollars ($178) provided the reinspection does not exceed one hour. When the reinspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

(b) Fees for accessory structures that do not have the department's standard plan approval issued in accordance with Section 2020.9 of this article shall be determined using the valuation table contained in Section 2020.7 of this article.

(c) Electrical, mechanical, and plumbing permit fees for installations in accessory structures shall not exceed those contained in this chapter.

(d) Plan check fees shall not be required for accessory structures for which a standard plan approval has been obtained from the department.

NOTE: Authority cited: Sections 18865, 18870.3 and 18871.3, Health and Safety Code. Reference: Sections 18865, 18870, 18870.2, 18870.3, 18870.4 and 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsections (a)(3)–(b) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of section heading and HISTORY 2 (Register 2005, No. 33).
4. Amendment of section heading and section filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 2020.6. Application Requirements for Permits for Park Construction or Alteration.

(a) This section applies to any person submitting an application pursuant to section 2018, for a permit to construct or alter any of the following:

(1) A park;

(2) An addition to a park;

(3) An alteration to a park;

(4) A permanent building in a park;

(5) An accessory building or structure without a standard plan approval.

(b) A person who is required to obtain a permit to construct, pursuant to section 18870 of the Health and Safety Code, shall submit an application for a permit to construct to the enforcement agency, with the appropriate fees as specified in section 2020.7 of this article, on the form prescribed by that agency.

(c) A person submitting an application pursuant to this section shall submit three (3) complete sets of plans and specifications or installation instructions, as required by section 2034 of this chapter.

(d) Applications for permits to construct or enlarge a park, shall be submitted with written evidence of compliance with California Environmental Quality Act (Public Resources Code Division 13, commencing with section 21000), and written evidence of approvals by all of the following:

(1) the local planning agency,

(2) the local health, fire, and public works departments,

(3) the local department responsible for flood control,

(4) the serving utilities, and

(5) any other state or federal agency or special district that has jurisdiction and would be impacted by the proposed construction.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18870, 18870.1, 18870.2, 18870.3, 18870.4 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2020.7. Permit Fees for Park Construction or Alteration.

(a) Any person submitting an application for a permit to construct with plans not having a department standard plan approval shall pay the following fees, as applicable:

(1) Permit Fee. For the purpose of determining fees, the enforcement agency may establish the permit fee in accordance with subsection (f) or (g) of this section as appropriate. However, the minimum permit fee shall be one hundred ninety–six dollars ($196) provided the initial related inspection associated with this permit does not exceed one hour. When the related inspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

(2) Plan Check Fee. One–half (1/2) of the combined total of construction, mechanical, plumbing, and electrical permit fees. However, the minimum fee shall be ten dollars ($10).

(b) Reinspection Fee: One hundred seventy–eight dollars ($178) provided the reinspection does not exceed one hour. When the reinspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

(c) When any person files applications simultaneously to construct two (2) or more permanent buildings, or accessory buildings or structures which are identical and are within the same park, only one (1) plan check fee shall be required.

(d) Electrical, mechanical, and plumbing permit fees shall not exceed those contained in this chapter.

(e) When plans and specifications fail to comply with the requirements of this chapter, the enforcement agency shall notify the applicant in writing, stating in what respects the plans do not comply. The applicant shall correct the plans and/or specifications and resubmit them to the enforcement agency. The following fees are required for each resubmission of plans or specifications subsequent to the initial plan check:

(1) Plan Check Fee. Two hundred three dollars ($203) provided the plan check does not exceed one hour. When the plan check exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: ninety–two dollars ($92).

(B) Each thirty (30) minutes, or fractional part thereof: forty–six dollars ($46).

(f) Fees for construction or alteration of facilities and installations on lots and within parks shall be the sum of the following categories comprising the proposed work subject to the minimum amounts specified in subsection (a)(1):

(1) For each lot	$5.75
(2) Electrical Permit Fees.	
Each park electrical service	14.00
Each unit substation or secondary distribution transformer	10.50
Each alteration or replacement of a service or a transformer	10.50
Each park lot electrical service equipment	7.00
Each alteration, repair, or replacement of a park lot electrical service equipment	7.00
Each street light including circuit conductors and control equipment	3.00

(3) Plumbing Permit Fees.

Each park sewage drainage system 14.00
Each private sewage disposal system or park water treatment installation 14.00
Each lot drain inlet 7.00
Each alteration or repair of drainage or vent piping 7.00
Each park water distribution system 7.00
Each park lot water service outlet or outlets at the same location 4.25
Each fire hydrant or riser 4.25
Each individual lot water conditioning installation 4.25
Each alteration, repair or replacement of water fixtures or equipment 4.25

(4) Gas Piping Permit Fees.

Each park gas piping system 7.00
Each installation of a liquefied petroleum or natural gas tank of 60 gallon capacity or more 7.00
Each gas riser outlet 4.25
Each alteration, repair, or replacement of park's gas piping system 4.25

(5) Each installation of equipment regulated by this chapter for which no other fee is listed 7.00

(g) Permit fees for a permit to construct accessory buildings or structures without a standard plan approval from the department, and foundation systems, permanent buildings, and/or electrical, mechanical, and plumbing installations within or on permanent buildings, or accessory buildings or structures shall be the sum of the following categories comprising the proposed work subject to the minimum amounts specified in subsection (a)(1):

(1) Table A. Construction Permit Fees.

Total Valuation	*Fee*
$2,000 or less	$45.00
$2,001 to $25,000	$45.00 for the first $2,000 plus $9.00 for each additional thousand or fraction thereof, to and including $25,000.
$25,001 to $50,000	$252.00 for the first $25,000 plus $6.50 for each additional thousand or fraction thereof, to and including $50,000.
$50,001 to $100,000	$414.50 for the first $50,000 plus $4.50 for each additional thousand or fraction thereof, to and including $100,000.
$100,001 to $500,000	$639.50 for the first $100,000 plus $3.50 for each additional thousand or fraction thereof, to and including $500,000.
$500,001 to $1,000,000	$2,039.50 for the first $500,000 plus $3.00 for each additional thousand or fraction thereof, to and including $1,000,000.
$1,000,001 and up	$3,539.50 for the first $1,000,000 plus $2.00 for each additional thousand or fraction thereof.

(2) Table B. Mechanical and Plumbing Permit Fees.

Each plumbing fixture, trap, set of fixtures on one trap, including water, drainage piping and backflow protection therefore $3.00
Each building sewer 14.00
Each private sewage disposal system 14.00
Each water heater and/or vent 7.00
Each gas piping system of one to five outlets 7.00
Each gas piping system for six or more outlets, per outlet 1.50
Each gas regulator 1.50
Each water branch service outlet or outlets at the same location, or each fixture supply 1.00
Each installation of water treating equipment 7.00
Alteration or repair of water piping or water treating equipment 7.00
Alteration or repair of drainage or vent piping 7.00
Each lawn sprinkler system on any one meter, including backflow protection devices 7.00
Vacuum breakers or backflow protective devices on tanks, vats, etc., or for installation on unprotected plumbing fixtures: one to five 3.00
over five, each additional 1.00
The installation or relocation of each forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance, up to and including 100,000 Btu 14.00
The installation or relocation of each forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance over 100,000 Btu 21.00
The installation or relocation of each floor furnace, including vent 7.00
The installation or relocation of each suspended heater, recessed wall heater or floor-mounted unit heater 7.00
The installation, relocation or replacement of each appliance vent installed and not included in an appliance permit 7.00
The repair of, alteration of, or addition to each heating appliance, refrigeration unit, comfort cooling unit, absorption unit, or each comfort heating, cooling, absorption, or evaporative cooling system, including installation of controls ..... 14 .00
The installation or relocation of each boiler or compressor to and including three horsepower or each absorption system to and including 100,000 Btu 14.00
The installation or relocation of each boiler or compressor over three horsepower or each absorption system over 100,000 Btu. 21.00
Each air handling unit, including ducts attached thereto 7.00
NOTE: This fee shall not apply to an air handling unit which is a portion of a factory-assembled appliance, comfort cooling unit, evaporative cooler or absorption unit for which a permit is required elsewhere in this chapter.
For each evaporative cooler other than portable type 7.00
For each vent fan connected to a single duct 3.00
For each vent ventilation system which is not a portion of any heating or air conditioning system authorized by a permit 7.00
Each installation of equipment regulated by this subchapter for which no other fee is listed 7.00

(3) Table C. Electrical Permit Fees.

Each wiring outlet where current is used or controlled, except services, sub-feeders and meter outlets ..... .35
Each fixture, socket or other lamp holding device ..... .35
Each motor of not more than 50 h.p 4.25
Each motor of more than 50 h.p 10.50
Each mercury arc lamp and equipment 1.00
Each range, water heater or clothes dryer installation 7.00
Each space heater or infrared heat installation 1.50
Each stationary cooking unit, oven, or space heater 1.50
Each garbage disposer, dishwasher, or fixed motor-operated appliance not exceeding 1/2 h.p 1.50
Working light in buildings in course of construction or undergoing repairs, or where temporary lighting is to be used 3.00
Each incandescent electric sign 1.50
Electric signs or outline lighting, luminous gas type with: 1 to 4 transformers 3.00
Additional transformers, each ..... .35
Each rectifier and synchronous converter, per K.W ..... .35
Each additional circuit for a mobile home accessory building or structure or other electrical equipment 1.50
Each service:
600 volts or less, not over 200-amperes 7.00
600 volts or less, over 200-amperes 10.00
Over 600 volts 14.00
Each installation of equipment regulated by this subchapter for which no other fee is listed 7.00

NOTE: Authority cited: Sections 18865, 18870.3 and 18871.3, Health and Safety Code. Reference: Sections 18870.2, 18870.3 and 18870.4, Health and Safety Code.

HISTORY

1. New section filed 7-6-2004; operative 7-6-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of section heading and section filed 12-29-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 2020.9. Application and Fee Requirements for Standard Plan Approvals.

(a) A standard plan approval is available from the department for a plan for an accessory structure constructed and installed pursuant to this article and Article 9 of this chapter.

(b) In order to obtain a standard plan approval, the applicant shall submit to the department the following items:

(1) A completed application for standard plan approval on the form, as defined in Section 2002 of this chapter, designated by the department.

(2) Three (3) copies of the plans, specifications, and/or installation instructions, if applicable, and two (2) copies of the design calculations, when required, to substantiate the design. Specifications shall be shown on the plan. Design calculations shall be submitted separately from the plan sheet.

(3) An application fee of two hundred three dollars ($203) for each plan.

(4) Plan check fee. Two hundred three dollars ($203) provided the plan check does not exceed one hour. When the plan check exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: ninety–two dollars ($92).

(B) Each thirty (30) minutes, or fractional part thereof: forty–six dollars ($46).

(5) Additional plan check fees shall be due and payable prior to the issuance of a plan approval or a revised plan approval, if more than one (1) hour is required to conduct the plan check.

(6) When plans and specifications fail to comply with the requirements of this chapter, the enforcement agency shall notify the applicant in writing, stating in what respects the plans do not comply. The applicant shall correct the plans and/or specifications and resubmit them to the enforcement agency or withdraw them from consideration, forfeiting all submitted fees.

(7) An Identification Label of Approval shall be provided for each accessory building or structure to be manufactured under the standard plan approval, and each accessory building or structure shall have an approved identification label of approval attached in a visible location.

(8) The actual identification label shall be submitted to the department for approval with the application for a standard plan approval prior to issuance of the approval. The approved identification label of approval shall:

(A) be not less in size than three (3) inches by one and one–half (11/2) inches;

(B) contain the following information, as applicable;

ACCESSORY BUILDING OR STRUCTURE

1. Name of Manufacturer

2. Standard Plan Approval No. ____

3. Designed for:

____lbs. per square foot roof live load

____lbs. per square foot horizontal wind load

____lbs. per square foot snow load

____lbs. per square foot floor live load

____lbs. per square foot wind uplift load

4. Structure (may) (may not) be enclosed.

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(C) be provided by the manufacturer and be permanently imprinted with the information required by this section;

(9) The identification label of approval shall be either Type I, II, or III as specified in this section, each capable of a ten (10) year life expectancy when exposed to ordinary outdoor environments. Letters and numbers shall be bold Gothic or similar style, varied for emphasis, as large as space permits, with the minimum size being 5/64 inch. Wording shall be easily read and concise. Where permanent type adhesives are used on Type I, II, or III plates, adhesives shall have a minimum thickness of .004 inches and the plates shall be affixed to a relatively smooth surface.

(A) Type I. Rigid metal plates affixed by screws, rivets, or permanent type adhesives.

Minimum size: one and one–half (1 1/2) inches by three (3) inches by .020 inches thick net dimensions (inside fastener heads).

Material: Aluminum, brass or stainless steel etched, stamped, engraved, or embossed to 0.015–inch minimum depth differential, color anodized or enamel filled.

(B) Type II. Flexible metal plates affixed by permanent adhesives, either pressure sensitive acrylics or solvent activated resins.

Minimum Size: .005 inch by one and one–half (1 1/2) inches by three (3) inches.

Material: Aluminum foil etched or stamped to .001 inches minimum depth differential with color anodized background.

(C) Type III. Metalized Mylar (polyester), surface bonded.

Minimum Size: .003 inches by one and one–half (1 1/2) inches by three (3) inches.

Material: Aluminum/vinyl surface bonded (to be used for nameplates where variable information is required by embossing, which can be done with a conventional typewriter).

Minimum Size: .006 inches by one and one–half (11/2) inches by three (3) inches.

(c) Plans submitted to the department shall be on sheets of paper no smaller than eight and one–half (8 1/2) inches by eleven (11) inches, and no larger than thirty (30) inches by forty–two (42) inches.

(1) Plans shall indicate the details of connections, dimensions, footings, foundations, general notes and method of installation necessary for the design and construction of the system.

(2) A plan shall indicate only one model or type of system.

(3) Each plan sheet shall provide a space not less than three (3) inches by three (3) inches for the department's standard plan approval stamp and number.

(4) When the design of the system requires an engineering analysis of structural parts and methods of construction, such as required for an engineered tiedown system or engineered accessory building or structure, the plans, specifications, and calculations shall be signed by an architect or engineer.

(5) Each plan shall be identified by a model number.

(d) If an application or plans are incomplete or do not conform to this chapter, the applicant shall be notified in writing within ten (10) working days of the date they are received by the department. The applicant shall resubmit a corrected application or plans within ninety (90) days of the notice, or within ninety (90) days of any subsequent notification relating to a resubmittal, along with the fees required by Section 2020.9 of this section.

(e) Should the applicant cancel the application for the standard plan approval prior to obtaining department approval, all fees submitted will be retained by the department for services rendered.

(f) A standard plan approval shall expire twenty–four (24) months from the date of the department's approval as designated on the department's stamp of approval placed on the plans.

(g) A standard plan approval may be renewed on or before the expiration date by submitting an application, together with three (3) copies of the plan as required by subsections (b)(1) and (2), and a renewal fee of two hundred three dollars ($203).

(1) Renewal of a standard plan approval is permitted only when the plan submitted is identical to the plan on file with the department.

(2) Each plan submitted for renewal shall provide a space not less than three (3) inches by three (3) inches for the department's standard plan approval stamp and number.

(3) When a standard plan approval is renewed, the department–issued number shall remain the same.

(h) An application for approval of revisions to a standard plan approval, which does not change the structural system or method of the system's

construction, and is submitted prior to the approval's expiration date, shall be submitted with the following documentation:

(1) three (3) copies of the revised plan and specifications;

(2) two (2) copies of the revised design calculations, as required by subsection (b)(2); and

(3) the plan check fee, for the first hour, for each plan.

(i) An applicant with a revised standard plan approval shall submit the following to the department:

(1) an application for a standard plan approval as specified in subsection (b)(1) above;

(2) copies as specified in subsections (h)(1) and (2) above; and

(3) a resubmission fee, as specified in Section 2020.9 above, for each plan.

(j) A revised plan submitted pursuant to Section 2020.9 above, shall be processed as provided by subsection (h) or subsection (h) or subsection (i), depending upon whether or not the changes to the plan are substantive. A plan submitted after the final expiration shall be processed as a new application with appropriate fees assessed.

(k) When amendment of applicable laws or the department's regulations requires changes to an approved plan, the department shall:

(1) notify the applicant of the changes, and

(2) allow the applicant one hundred eighty (180) days from the date of notification to submit a revised plan for approval or until the expiration date of the standard plan approval, whichever occurs first.

(*l*) Written approval shall be evidenced by the department's stamp of approval on the plans. The stamp of approval shall include a unique department–issued standard plan approval identification number for each approved plan, specification, or installation instruction.

(m) Standard plan approval for each accessory building or structure, foundation system, or engineered tiedown system is contingent upon compliance with the requirements of this article. The department may conduct inspections to determine compliance with an approved plan. Violation of any of the provisions of this article or variations from an approved plan shall be cause for cancellation of the standard plan approval.

(n) Reproductions of an approved plan bearing a department–issued standard plan approval for the purpose of obtaining a permit to construct a foundation system or accessory building or structure shall be clear and legible.

(o) When an applicant who has obtained a standard plan approval, discontinues the business, has notified the department, or the department makes that determination, the standard plan approval shall be canceled.

(p) The department shall be notified of any change in the name of an applicant or change in name or ownership of an applicant's business. The department may grant a standard plan approval to the new owner, if the new owner provides a written certification that the accessory building or structure foundation system or engineered tiedown system will be constructed in accordance with the existing standard plan approval and submits the completed form designated by the department, together with a ten dollar ($10) fee. The certification, application, and fee shall be submitted for each plan with a separate standard plan approval.

(q) An applicant shall notify the department, in writing, within ten (10) days of any change to their address. The notification shall be accompanied with a ten dollar ($10) change of address fee.

(r) Plans with a standard plan approval from the department shall be accepted by the enforcement agency as approved for the purpose of obtaining a construction permit if when the design loads and allowable soil conditions specified in the plans are consistent with the requirements for the locality. Local enforcement agencies shall not require the original signature of the architect or engineer on the standard plan approval.

NOTE: Authority cited: Sections 18865, 18870.2 and 18870.3, Health and Safety Code. Reference: Sections 18870.3, 18871.2 and 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

2. Amendment filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 2030. California Environmental Quality Act Compliance.

Wherever the department is the enforcement agency, evidence of compliance with The California Environmental Quality Act, Public Resources Code, Division 13, commencing with section 21000, shall be submitted with an application for a permit to construct, enlarge a park.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18865.1, 18866.6 and 18870.1, Health and Safety Code; and Sections 21000, et seq., Public Resources Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2032. Permit Applications — Required Approvals.

(a) All applications for permits to construct shall be submitted on the designated form provided by the enforcement agency.

(b) Applications for permits to construct or enlarge a park, shall be submitted with written evidence of compliance with the California Environmental Quality Act, along with written approval by all of the following:

(1) the local planning agency;

(2) the local health, fire, and public works departments;

(3) the local department responsible for flood control;

(4) the serving utilities; and

(5) any other public agencies having jurisdiction over the activity contained in the permit application.

(c) Park operator approval is required on all applications for a permit to construct, reconstruct or alter the park electrical, fuel gas, plumbing, or fire protection equipment or installations.

(d) Park operator approval is required with all applications for a permit to install a manufactured home or mobilehome pursuant to section 2118 of this chapter, or to alter any unit located in a park if such alteration would affect the electrical, fuel gas or plumbing system of the park.

(e) Park operator approval is required on all applications for permits to construct, reconstruct, install or alter an accessory building or structure or building component to be located or proposed to be located within a park.

(f) Written evidence of applicable local approvals may be required for permanent buildings, when the construction may impact local services.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18866.6 and 18870.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2034. Plans.

(a) Three (3) complete sets of plans and specifications shall be submitted for all work to be performed, if required by the enforcement agency.

(b) Plans and specifications submitted to the enforcement agency shall be of sufficient clarity to indicate the nature and extent of all work proposed and show in detail that the work will conform to the provisions of this chapter.

(c) When the design of the system requires an engineering analysis of structural parts or methods of construction, the plans, specifications, and calculations shall be signed by an architect or engineer.

(d) Any deviation from the approved plans and specifications shall be approved by the designer, engineer, or architect and shall be submitted to the enforcement agency for approval.

(e) The enforcement agency may waive the requirement for plans and/or specifications when the proposed work is of a minor nature.

(f) Complete plans, specifications, calculations, and supporting data shall be submitted where the work proposed is not in conformity with or deviates from the provisions of this chapter.

(g) Electrical plans shall include a single line diagram of the electrical equipment to be installed, altered or changed. Complete load calculations of the electrical system shall be provided with plans.

(h) Complete engineering plans, specifications, calculations and supporting data, signed by an electrical engineer, shall be submitted when

the park's electrical main service or any of the electrical wiring system exceeds the voltage of the secondary system.

(i) Any person applying for a permit to install additional electrical equipment in a park shall submit the following information with the application for a permit to construct.

(1) The size of the feeder circuit and overcurrent protection of that feeder circuit; and

(2) The number of lots and the load of any other electrical equipment supplied by the feeder circuit.

(j) An approved set of plans and specifications and a copy of the permit to construct shall be kept on the job site until the enforcement agency has made a final inspection.

(k) The provisions of this chapter are not intended to prevent the owner of an accessory structure from reinstalling the accessory structure when the unit is relocated. Structural plans, other than details of footings and foundations, are not required for reinstallation of an accessory structure which complied with the requirements of the regulations in effect at the time of original installation, provided the accessory structure:

(1) is structurally sound;

(2) does not present a hazard to the safety of the occupants and/or the public;

(3) meets the live load design requirements contained in article 9 of this chapter; and

(4) complies with all other installation requirements contained in this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18865 and 18870.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2038. Extension of Permit to Construct.

(a) An extension of a permit to construct may be granted provided work has commenced. No extension shall be granted where work has not been started prior to the expiration of the initial permit to construct. Each extension shall be limited to six (6) months. No permit to construct or reconstruct shall be extended more than two (2) years from the date of issuance of the initial permit to construct.

(b) Where a permit to construct has expired, all work shall cease until a valid permit to construct has been issued by the enforcement agency. A reapplication need not be accompanied by plans and specifications or installation instructions where:

(1) construction is to be completed in accordance with plans filed with the initial permit to construct; and

(2) the approved plans are made available to the enforcement agency during the construction; and

(3) plans were approved less than two (2) years prior to the request for extension.

(c) Fees paid for a permit to construct shall be forfeited to the enforcement agency if the applicant does not start construction within six (6) months of the date of issuance of the permit, or upon expiration of the permit where work has commenced and no extension has been granted pursuant to subsection (a).

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18870.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2042. Swimming Pools.

Construction and barrier requirements for public and private swimming pools constructed within a park are contained in the California Building Code.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2044. Construction.

(a) All construction shall be performed in accordance with approved plans and specifications and shall not be changed, modified or altered without the express prior approval, when possible, of the person or entity providing the original approval and the enforcement agency.

(b) The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of the Health and Safety Code or any of the provisions of this chapter or any other applicable law.

Whenever an issued permit, or the work that it authorizes, violates provisions contained in this chapter, the Health and Safety Code, or any other provisions of applicable law, the permit, or that portion of the permit that authorizes the work in violation, shall be deemed null and void.

(c) The issuance of a permit based upon plans and specifications shall not prevent the enforcement agency from thereafter requiring the correction of errors in these plans and specifications, nor shall the issuance of a permit preclude the enforcement agency's power to prevent occupancy of a building, accessory building or structure, or building component when it is found to be in violation of this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference; Sections 18870.1, 18871.3, 18872, 18873, 18873.3 and 18873.4 Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2045. Excavation and Grading.

Except as provided in this chapter, the procedures relating to excavation, grading, and earthwork, including fills and embankments, are contained in the California Building Code, Appendix Chapter 33.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18870 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2046. Stop Order.

Whenever any work is performed in violation of the provisions of this chapter, the Health and Safety Code, or any other applicable provisions of law, the enforcement agency shall post an order to stop work on the site and provide a written notice to the person responsible for the work being performed. The work shall immediately stop until authorized to proceed by the enforcement agency.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18866.5 and 18870, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2048. Inspections.

(a) The person to whom a construction permit is issued shall request inspection of all of the following:

(1) any underground or enclosed work prior to covering;

(2) permanent buildings; and

(3) accessory buildings or structures, or building components.

(b) The required inspections shall occur at the following stages of construction, when applicable:

(1) Form inspection: When trenching is completed and forms have been set for the foundation, including all plumbing, mechanical, and electrical installations which may be concealed beneath the foundation or slab.

(2) Frame inspection: When all structural framing is completed, including all electrical, mechanical, and plumbing installations which are to be enclosed within the walls.

(3) Lath and/or wallboard inspection: When all lathing and/or wallboard interior and exterior is completed, but before any plaster is applied or before wallboard joints and fasteners are taped and finished.

(4) Final inspection: When the permanent building, accessory building or structure, or building component, is completed.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3, 18872, 18873.3 and 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2050. Construction Permit Penalty.

Any person commencing construction without a valid permit shall discontinue the construction until a permit to construct is obtained, and shall pay double all fees prescribed for the permit.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18870.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 2. General Park Requirements

§ 2100. Application and Scope.

(a) The provisions of this article shall apply to the construction, use, maintenance, and occupancy of lots within parks in all parts of the state.

(b) Existing construction and installations made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18872 and 18872.2, Health and Safety Code.

HISTORY

1. New article 2 (sections 2100–2126) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2102. Responsibility.

(a) The owner, operator, or the designated agent for the park shall be responsible for the safe operation and maintenance of all common areas, park–owned electrical, gas, and plumbing equipment and their installations, and all park–owned permanent buildings or structures, within the park.

(b) The owner of a unit, accessory building or structure, or building component shall be responsible for the use and maintenance of the unit, accessory building or structure, or building component and its utility connections up to the lot services in compliance with the requirements of this chapter.

(c) Any person obtaining a permit to construct shall be responsible for the construction or installation in accordance with the requirements of this chapter.

(d) The operator of a park shall not permit a unit, accessory building or structure, building component, or any park utility to be constructed, installed, used, or maintained in the park unless constructed, installed, used, and maintained in accordance with the requirements of this chapter.

(e) Procedures related to notice of violation and responsibilities to abate violations are set forth in article 10, commencing with section 2600 of this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18866.2, 18866.3 and 18871.8, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2104. Lot Address Identification and Lot Line Marking.

(a) All lots shall be identified by letters, numbers, or street address numbers. The lot identification shall be in a conspicuous location facing the roadway.

(b) All lots shall be defined by permanent corner markers. Corner markers shall be visible at grade and shall be installed in a manner that does not create a hazard.

(c) Permanent corner markers shall be any of the following:

(1) Pressure–treated wood, or wood of natural resistance to decay and insects, as determined in the California Building Code, Chapter 23, section 2302, at least two (2) inches by two (2) inches in nominal dimension, driven into the ground to a depth of at least eighteen (18) inches, or six (6) inches if it is surrounded by a concrete pad at least four (4) inches in diameter and at least six (6) inches in depth.

(2) Metallic pipe or rods protected from corrosion by galvanizing, paint, or a protective coating which resists corrosion, and is driven into the ground to a depth of at least eighteen (18) inches, or is driven into the ground to a depth of at least six (6) inches when it is surrounded by a concrete pad at least four (4) inches in diameter and at least six (6) inches in depth.

(3) Schedule 40 or better PVC, ABS, or CPVC pipe driven into the ground to a depth of at least eighteen (18) inches, or driven into the ground to a depth of at least six (6) inches when it is surrounded by a concrete pad at least four (4) inches in diameter and at least six (6) inches in depth.

(4) Saw cuts, blade marks, or scribe marks in a concrete or asphalt curb or roadway which are different in depth and nature than expansion joints.

(5) A nail with either a metal washer or surveyor's marker, which is either driven or embedded into concrete or asphalt, curbs or streets.

(d) To determine the edge of a lot bordering a roadway with curbing, the lot ends at the beginning of the curbing; curbing is part of the roadway.

(e) Lot lines identifying individual lots or campsites are not required in an incidental camping area or temporary recreational vehicle park; however, the general locations where camping or parking will be permitted shall be shown on the map or plot plan of the incidental camping area or temporary recreational vehicle park.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18872, 18872.1 and 18872.2, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Repealer of subsection (d) and subsection relettering filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2105. Lot Line Changes.

(a) Compliance with this section shall be required for any lot line change within a park. Compliance with subsections (b), (c) and (e) of this section shall not be required for any lot line creation; however, notwithstanding any other provision of this chapter, a lot line creation shall comply with the requirements of section 2020.6.

(b) The park owner or operator shall submit to the enforcement agency an application for a permit to construct, on a form designated by that agency, for a lot line change, along with all of the following:

(1) three (3) copies of a detailed plot plan with an identified date of preparation and measurements, indicating both the existing and proposed locations of the lot lines, which shall indicate all of the following:

(A) the locations of and distances between any units, accessory buildings or structures, or other built improvements on the affected lots (such as patios or parking areas), within ten (10) feet of the current and proposed lot lines;

(B) the distances from all existing and proposed lot lines of the lots on which those units, buildings or structures, or other improvements are located;

(C) the number of lots affected;

(D) the addresses or other identifying characteristics of those affected lots;

(E) proof of delivery of copies of the plot plan to all persons with registration or rental agreements with the park having units on the affected lots by registered or certified mail, sent by at least first class mail;

(F) the type(s) or marking(s) used to designate the existing and proposed lot line locations; and

(G) if the park is a common interest development, as defined in Civil Code section 1351, and lot line change involves encroaching into a common area, compliance with the approval provisions of Civil Code section 1363.07.

(2) the names and residence addresses of the persons with registration or rental agreements with the park having units on the lots affected by the lot line change and the addresses or other identification of their units' lots if different than the residence address;

(3) a copy of the original written authorization, signed and dated by each of the persons with registration or rental agreements with the park having units on the lots affected by the lot line change, that includes the following statement:

I, [*name of persons with registration or rental agreements with the park*], have received a copy of the plot plan dated [*date of plot plan*] proposing to change a lot line affecting the lot where my unit is located and I/we approve of the proposed change in the location of the lot line(s) as detailed on the plot plan.

(4) a written statement signed and dated by the park operator or the operator's agent that the lot line change is substantially consistent in all material factors with both of the following:

(A) all health and safety conditions imposed by the local government as a condition of the initial construction of that space or the park; and

(B) prior applicable local land use requirements for the park; and

(5) the applicable permit fee as specified in section 2020.7 of this chapter.

(c) When the department is the enforcement agency and the number of lots in the park is increased or decreased by the change in lot lines pursuant to this section, the applicant shall deliver a written notice to the local planning agency, by personal delivery or by registered or certified mail, of the proposed change in the number of lots prior to or concurrent with its submission of the application to the department and provide a statement attesting to that delivery and the proof of delivery by either a stamped receipt or the proof of service by registered or certified mail. The notice shall include one copy of all the information required by paragraphs (1) through (4) of subsection (b) and the office address of the department's area office performing the inspection.

(d) The enforcement agency shall perform an on–site inspection prior to approval of a lot line change or creation, in order to ensure consistency with this chapter and the application. Any existing lot line markings shall remain in place until after approval by the enforcement agency for the lot line change. At the time of inspection the applicant, or his or her designee, shall permanently mark the new lot line or lot lines pursuant to section 2104 of this chapter and eradicate any preexisting lot line markings. No approval shall be given for lot line changes without identification to the satisfaction of the enforcement agency of the existing lot line locations.

(e) Following approval of the lot line change by the enforcement agency, the enforcing official shall sign and date the submitted plot plan signifying its approval. Copies of that approved plot plan shall then be given by the applicant to the persons with registration or rental agreements with the park having units on all the affected lots.

(f) No lot line shall be created, moved, shifted, or altered if the lot line creation or change will place a unit or accessory building or structure in violation of any provision of this chapter or any other applicable provision of law.

NOTE: Authority cited: Sections 18865, 18872.1 and 18872.2, Health and Safety Code. Reference: Sections 18872, 18872.1 and 18872.2, Health and Safety Code; and Sections 1351 and 1363.07, Civil Code.

HISTORY

1. New section filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
2. Editorial correction of HISTORY 1 (Register 2005, No. 33).
3. Amendment of subsections (b)(1) and (b)(1)(E)–(F), new subsection (b)(1)(G) and amendment of NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2106. Roadways.

All park roadways shall have a clear and unobstructed access to a public thoroughfare, except that a roadway may have security gates, if those security gates are not in violation of local government requirements.

(a) In parks, or portions thereof, constructed prior to September 15, 1961,

(1) Each lot shall have access to a roadway of not less than fifteen (15) feet in unobstructed width.

(2) No vehicle parking shall be allowed on roadways less than twenty–two (22) feet in width. If vehicle parking is permitted on one side of the roadway, the roadway shall be a minimum of twenty–two (22) feet in width. If vehicle parking is permitted on both sides of the roadway, the roadway shall be not less than thirty (30) feet in width.

(b) In parks constructed on or after September 15, 1961,

(1) each lot shall have access to a two–way roadway of not less than eighteen (18) feet, or a one–lane, one–way roadway not less than twelve (12) feet, in unobstructed width.

(2) No vehicle parking shall be allowed on one–way, one–lane roadways less than nineteen (19) feet in width. If vehicle parking is permitted on one side of a one–lane roadway, the roadway shall be a minimum of nineteen (19) feet in width. If vehicle parking is permitted on both sides of a one–lane roadway, the roadway shall be at least twenty–six (26) feet in width.

(3) No vehicle parking shall be allowed on two–lane, two–way roadways less than twenty–five (25) feet in width. If vehicle parking is permitted on one side of a two–way roadway, the roadway shall be a minimum of twenty–five (25) feet in width. If vehicle parking is permitted on both sides of a two–way roadway, the roadway shall be at least thirty–two (32) feet in width.

(c) Roadways designed for vehicle parking on one side shall have signs or markings prohibiting the parking of vehicles on the traffic flow side of the roadway, in order to provide a continuously open and unobstructed roadway, clearly visible at any given point of the roadway where parking is prohibited.

(d) A two–way roadway divided into separate, adjacent, one–way traffic lanes by a curbed divider or similar obstacle shall be not less than twelve (12) feet in unobstructed width on each side of the divider.

(e) In parks which were constructed after September 23, 1974, and which contain not more than three (3) lots, each lot shall abut a roadway that is not less than twenty (20) feet in unobstructed width.

(f) Roadways, other than those necessary for maintenance by the operator, are not required in incidental or tent camp areas.

(g) Roadways required for emergency vehicles and the operation and maintenance of incidental camping areas and of tent camps shall be maintained to provide safe passage of vehicular traffic.

(h) Paving is not required for roadways or driveways unless it is necessary for compliance with section 2116 of this chapter.

(i) At the request of the park owner/operator, the local fire protection agency may designate the sides or portions of roadways in a park as fire lanes provided those designations do not conflict with the roadway widths of this section.

(j) If a park owner or operator proposes reducing the width, or changing the layout or configuration, of the park roadways from the way they were previously approved or constructed, local fire protection agency acknowledgment of the change shall be submitted to the enforcement agency.

NOTE: Authority cited: Sections 18865, 18865.05, 18865.3 and 18873.5, Health and Safety Code. Reference: Sections 18872.2 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).
4. Amendment of section and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2108. Park Lighting.

In every park, lighting shall be installed which is capable of providing:

(a) An average of five (5) horizontal foot candles of light at the floor level at entrances to toilet and shower buildings, laundry buildings, and recreation buildings when the buildings are in use during the hours of darkness.

(b) An average of ten (10) horizontal foot candles of light at the floor level within toilet and shower buildings, laundry buildings, and recreation buildings when the buildings are in use during the hours of darkness.

(c) An average of two–tenths (2/10) horizontal foot–candles of light the full length of all roadways and walkways within a park during the hours of darkness.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.7, 18873 and 18873.2, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (c) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2110. Occupied Area.

(a) The occupied area of a lot, consisting of the unit, and all accessory buildings and structures including, but not limited to awnings, stairways, ramps and storage cabinets, shall not exceed seventy–five (75) percent of the lot area.

(b) For purposes of this chapter, patios and paved or concrete areas on grade, and the area of accessory buildings or structures located under another accessory structure, such as a storage cabinet or porch under an awning or carport, are not included in the measurement of the occupied area. The occupied area shall be determined as if viewed from overhead looking directly down on the lot.

NOTE: Authority cited: Sections 18865 and 18865.05, Health and Safety Code. Reference Sections 18872 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (b) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).
4. Amendment of subsection (b) and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2112. Required Toilet and Shower Facilities.

Toilets, showers, and lavatories shall be provided as follows:

(a) In parks constructed and operated exclusively for dependent units, at least one toilet, one shower, and one lavatory for each gender for each fifteen (15) dependent unit lots shall be provided.

(b) In parks constructed after July 7, 2004, containing dependent lots or allowing dependent units, at least 1 toilet, shower, and lavatory, for each gender, for each twenty–five (25) lots shall be provided, or fractional part thereof.

(c) In parks constructed on or before July 7, 2004, containing dependent lots or allowing dependent units, the following minimum ratio of toilets, showers, and lavatories for each gender shall be maintained:

Lots	*Toilets*	*Showers*	*Lavatories*
1–25	1	1	1
26–70	2	2	2

One additional toilet shall be provided for each gender, for each one hundred (100) additional lots, or fractional part thereof in excess of seventy (70) lots.

(1) Independent, individually enclosed, lockable facilities containing one (1) toilet and lavatory, or shower, may be designated as unisex on an equal one (1) to one (1) ratio to gender–designated facilities, as described in this section, provided the number of gender–designated facilities remain equal.

(2) Sufficient toilets shall be reserved for the exclusive use of the occupants of the lots in the park.

(3) Toilets, lavatories, and showers shall be within five hundred (500) feet of all dependent unit lots or lots not provided with a lot water service outlet and a three (3) inch lot drain inlet.

(4) Toilet, lavatory and shower facilities shall be separated and distinctly marked as either men or women, or unisex.

(5) Showers shall be provided with hot and cold running water. Each shower shall be contained within a separate compartment. Each shower compartment shall be provided with a dressing area of not less than six (6) square feet of floor area that shall have hooks for hanging clothing and a bench or chair for use by the occupant.

(6) Toilets shall be installed in separate compartments.

(7) Toilet and shower facilities are not required in tent camps but, if installed, shall comply with this section. Sanitary facilities that do not comply with this section, such as chemical toilets, may be installed if approved by the local health department.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18873, 18873.1 and 18873.2, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsections (b)–(c)(1) and (c)(3) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2114. Animals.

(a) Dogs, and other domestic animals, and cats (domestic or feral) shall not be permitted to roam at large (free) in any park.

(b) Animal feces shall not be permitted to accumulate on any lot or common area in a park to the extent that they create a nuisance.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18871.6, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2116. Park and Lot Area Grading.

(a) The park area and park roadways shall be so graded that there will be no depressions in which surface water will accumulate and remain for a period of time that would constitute a health and safety violation as determined by the enforcement agency. The ground shall be sloped to provide storm drainage run–off by means of surface or subsurface drainage facility.

(b) Each lot shall be graded to prevent the migration of water to the underfloor area of a unit, or accessory building or structure. Other methods to prevent the migration of water beneath a unit, or accessory building or structure may be approved by the department as alternates, in accordance with section 2016 of this chapter.

(c) To provide for unanticipated water entering the area beneath a unit, or accessory building or structure, that area shall be sloped to provide for drainage to an approved outside drainage way. Other positive passive drainage methods may be approved by the department as an alternate, in accordance with section 2016 of this chapter.

(d) Drainage from a lot, site, roadway, or park area shall be directed to a surface or subsurface drainage way and shall not drain onto an adjacent lot, or site.

(e) The area of the lot where the camping cabin is to be installed shall be graded to not more than a 2% grade.

(f) Fills necessary to meet the grading requirements of this section shall comply with section 2045 of this chapter.

(g) Minor load bearing grading and area fills that are made with a compacted class 2 aggregate and that do not exceed six (6) inches in depth, do not require additional approvals.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18863.4 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (g) and NOTE filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2118. Lot Occupancy.

(a) Parks shall accommodate only recreational vehicles, tents, and camping cabins.

(b) A manufactured home or mobilehome shall not be located or installed in a park except for use by persons employed in the management or operation of the park.

(c) In no case shall a truck–mounted camper be occupied if removed from the truck.

(d) A permanent building, garage, cabana, or storage building shall not be constructed or installed on any lot in a park.

(e) Lot occupancy shall not exceed the number of persons in a camping party as defined in section 18862.7 of the Health and Safety Code.

(f) When the provisions of this section allow two units or tents on a single lot, the separation requirements contained in subsection 2330(a) do not apply to the units or tents on that lot.

(g) The following shall apply to lots in parks designed to accommodate recreational vehicles.

(1) Except as provided in paragraph (2) of this section, lot shall accommodate no more than:

(A) one (1) recreational vehicle and one (1) tent, or

(B) one (1) camping cabin, or

(C) two (2) tents, or

(D) one (1) manufactured home or mobilehome used in accordance with subsection (b).

(2) When used as a frequent means of transportation, a self–propelled recreational vehicle or truck mounted camper may be parked beside an occupied unit. That vehicle shall not be occupied or connected to the lot's utility facilities or interconnected with the occupied unit.

(h) The following shall apply in parks designated as incidental camping areas.

(1) An incidental camping area shall accommodate only recreational vehicles, tents, or campers furnishing their own camping equipment.

(2) A cabana, ramada, garage, or permanent building shall not be constructed, or installed, on any campsite in an incidental camping area.

(3) An incidental camping area campsite shall accommodate no more than:

(A) two (2) recreational vehicles, or

(B) one (1) camping party, or

(C) two (2) tents, or

(D) one (1) recreational vehicle and one (1) tent, or

(E) one (1) camping cabin.

(i) The following shall apply in parks designated as tent camps.

(1) A recreational vehicle shall not be permitted to occupy a tent lot or campsite.

(2) Occupancy of lots or campsites is limited to one (1) camping party which may be permitted to occupy not more than two (2) tents on the lot or campsite.

(3) Accessory buildings or structures shall not be constructed, or installed, on any campsite or tent lot in a tent camp.

(j) The following shall apply in parks designated as temporary recreational vehicle parks.

(1) A temporary recreational vehicle park shall accommodate only recreational vehicles and tents.

(2) Accessory buildings or structures shall not be constructed, or installed, on any lot, or campsite.

(3) A temporary recreational vehicle park lot shall accommodate no more than:

(A) two (2) recreational vehicles, or

(B) one (1) camping party, or

(C) two (2) tents, or

(D) one (1) tent and one (1) recreational vehicle.

NOTE: Authority cited: Sections 18865, 18865.05 and 18865.3, Health and Safety Code. Reference: Sections 18871, 18871.3, 18872, 18873, 18873.1 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. New subsection (f), subsection relettering and amendment of NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2120. Rubbish and Accumulation of Waste Material.

(a) Occupants shall keep the lot area and the area under, around, or on their unit and accessory buildings or structures free from an accumulation of refuse, rubbish, paper, leaves, brush or other combustible material.

(b) Waste paper, hay, grass, straw, weeds, litter, or combustible flammable waste, refuse, or rubbish of any kind shall not be permitted, by the park owner or operator, to remain upon any roof or on any vacant lot, open space, or common area.

(c) The park area shall be kept clean and free from the accumulation of refuse, garbage, rubbish, excessive dust, or debris.

(d) The park operator shall ensure that a collection system is provided and maintained, with covered containers, for the safe disposal of rubbish.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18872 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2122. Emergency Information.

The requirements of this section shall be printed and posted in a conspicuous place on the premises and shall contain the following information:

(a) List the following telephone numbers:

(1) Fire Department

(2) Police Department or Sheriff's Office.

(3) Park Office.

(4) The responsible person for operation and maintenance.

(5) Enforcement agency.

(b) List the following locations:

(1) Nearest fire alarm box, when available.

(2) Park location (street or highway numbers).

(3) Nearest public telephone.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2126. Lot Utility Location.

When utility equipment to supply electrical power, water, sewer or gas is provided to a lot, the utilities shall be located in the rear half (1/2) of the lot on the right side when facing the lot from the roadway and within four (4) feet of the side of the proposed location of the unit.

NOTE: Authority cited: Sections 18865 and 18873.3, Health and Safety Code. Reference: Sections 18872, 18873.1, 18873.3 and 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

Article 3. Electrical Requirements

§ 2130. Application and Scope.

(a) The requirements of this article shall apply to all parks, accessory buildings or structures, and units, (except within permanent buildings), in all parts of the state, to the construction, installation, alteration, repair, use, and maintenance of all electrical wiring and equipment for supplying electrical energy to all units.

(b) Existing electrical construction, connections, and installations made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Sections 18865, 18872 and 18873.3, Health and Safety Code. Reference: Sections 18872 and 18873.3, Health and Safety Code.

HISTORY

1. New article 3 (sections 2130–2190) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2132. Permanent Building Electrical Regulations.

Requirements for electrical equipment and installations within permanent buildings in parks are found in the California Electrical Code.

NOTE: Authority cited: Sections 18865, 18873 and 18873.3, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2134. Basic Electrical Regulations.

(a) Except as otherwise permitted or required by this article, all electrical equipment and installations outside of permanent buildings in parks shall comply with the requirements for installations of 600 volts or less found in the California Electrical Code.

(b) All park–owned overhead electrical equipment of park electrical systems shall also comply with the applicable requirements of the current California Public Utilities Commission Rules for Overhead Electric Line Construction, General Order No. 95. If there is any conflict between the provisions contained in the California Electrical Code and General Order 95, the provisions of General Order 95 shall prevail.

(c) All park–owned underground electric equipment of park electrical systems shall also comply with the applicable requirements of the current California Public Utilities Commission, Rules for Construction of Underground Electric Supply and Communication Systems, General Order No. 128. If there is any conflict between the provisions contained in the California Electrical Code and General Order 128, the provisions of General Order 128 shall prevail.

(d) All additions or alterations to existing or new parks shall have plans submitted in compliance with section 2034 of this chapter.

(e) Except as otherwise permitted or required, all high voltage (exceeding 600 volts) electrical installations outside of permanent buildings within parks, shall comply with the applicable requirements of Title 8, California Code of Regulations, Chapter 4, Subchapter 5, Group 2, High Voltage Electrical Safety Orders.

(f) If there is any conflict between the provisions of this chapter, General Order 95, General Order 128, or the California Electrical Code, the provisions of this chapter shall prevail.

NOTE: General Order Numbers 95 and 128 may be obtained from the California Public Utilities Commission (CPUC), Technical Library, 505 Van Ness Ave., San Francisco, CA 94102 or by calling the CPUC at (415) 703–1713. They may also be viewed on line at www.cpuc.ca.gov.

NOTE: Authority cited: Sections 18865, 18865.05 and 18873.3, Health and Safety Code. Reference: Sections 18872 and 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsections (b)–(c) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).
4. Amendment of subsections (b), (c) and (f) and amendment of NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2136. Conductors and Equipment.

(a) Six–hundred (600) volts or less. For purposes of this chapter, all electrical conductors and equipment rated at 600 volts or less, installed outside of permanent buildings in park electrical wiring systems constructed, or approved for construction, shall be listed and labeled as approved for their intended use.

(b) Greater than 600 volts. Conductors and equipment installed in systems operated at more than 600 volts shall comply with the applicable provisions contained in the California Electrical Code, Article 490, and the High Voltage Safety Orders contained in Title 8, California Code of Regulations, Chapter 4, Subchapter 5, Group 2.

(c) A grounded neutral conductor may be a bare conductor when properly isolated from phase conductors. A bare neutral conductor, or a bare concentric stranded conductor of a cable used as a grounded neutral conductor, shall be copper when installed underground. These types of systems shall be solidly grounded.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2138. Energizing.

Lot electrical equipment and installations shall not be energized until inspected and approved by the enforcement agency.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2140. Distribution System.

(a) The park electrical wiring system shall be designed to supply adequate electrical energy to all lots and all other connected loads, as determined by this article.

(b) Electrical energy supplied to a lot and all other connected loads shall be nominal 120/240 volts, single phase.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2146. Voltage Drop.

The voltage drop shall not exceed five (5) percent on the park electrical wiring system from the park service to the most remote outlet on the system, except that taps to compensate for below normal full capacity voltage may be used on the primary side of secondary distribution transformers to correct for voltage drop on the primary feeders. The voltage of secondary systems shall not exceed a nominal 240 volts.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2148. Overcurrent Protection.

(a) Conductors shall be protected by overcurrent protective devices. A fuse or circuit breaker rating shall not be greater than the allowable ampacity of the conductors to be protected as specified in Tables 310–16 through 310–19 in the California Electrical Code, except as provided in Articles 210, 240, and 430.

(b) All electrical equipment and devices, including service equipment, transformers and receptacles, shall be protected by overcurrent protective devices rated at not more than the rating of the equipment or device, except as provided in Articles 210, 240, 430, and 450 of the California Electrical Code.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2150. Park Electrical Disconnecting Means.

(a) Each service equipment enclosure for the park shall be provided with a single main disconnect switch or circuit breaker lockable in the open position for disconnecting the electrical wiring system or systems of the park.

(b) A disconnecting means shall be provided for disconnecting each distribution transformer. When the disconnecting means is not installed immediately adjacent to the distribution transformer, it shall be identified as to its usage and shall be arranged to be locked in the open position.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2151. Lot Electrical Disconnecting Means.

A single disconnecting switch or circuit breaker shall be provided in the lot service equipment for disconnecting the power supply to the unit. The disconnecting switch, circuit breaker or its individual enclosure shall be clearly marked to identify the lot serviced.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2152. Ground–Fault Protection.

Ground–fault protection of park service equipment shall be provided for solidly grounded wye electrical services of more than 150 volts to ground, but not exceeding 600 volts phase–to–phase for each service disconnecting means rated at 1,000 amperes or more. Each service disconnecting means rated 1000–amperes or more shall be performance tested when first installed, as required by the California Electrical Code, Section 230–95. The test shall be conducted in accordance with approved instructions, which shall be provided with the equipment. A written record of this test shall be made and shall be available to the enforcement agency.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2153. Equipment Grounding.

Exposed noncurrent–carrying metal parts of fixed electrical equipment shall be grounded as required by the California Electrical Code, Article 250.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2154. Primary System Grounding — 600 Volts or Less.

(a) When the park electrical service is supplied by a grounded system operated at 600 volts or less, an equipment grounding conductor shall be run with the feeders of the park primary electrical system to all equipment supplied by the primary electrical system.

(b) Park primary electrical systems within the park operated at 600 volts or less supplied by an ungrounded system shall not be grounded.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2156. Primary System Grounding — Over 600 Volts.

(a) Park primary electrical systems within the park operated at more than 600 volts supplied by a grounded system shall be grounded at the park service.

(b) Park primary electrical systems within the park operated at more than 600 volts supplied by an ungrounded system shall not be grounded.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2158. Secondary Systems — Lot Service Equipment.

The neutral conductor of all secondary systems supplying lot service equipment shall be grounded at both the secondary system source and the lot service equipment.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2160. Secondary Systems — Other than Lot Service Equipment.

The neutral conductor of all secondary systems supplying equipment other than lot service equipment shall be grounded as required by the California Electrical Code, article 250.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2162. Grounding Connections.

System grounding conductors and equipment grounding conductors shall be connected as required by the California Electrical Code, article 250. The connection of a grounding conductor to a grounding electrode shall be exposed and readily accessible.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2163. Grounding of Units.

All exposed, noncurrent–carrying metal parts of a unit, when connected to the lot service equipment, shall be grounded by means of a grounding conductor run with the circuit conductors or in a listed power supply cord provided with an approved polarized multi–prong plug. One prong of the plug shall be for the sole purpose of connecting that grounding conductor, by means of a listed and approved grounding receptacle, to the grounded terminal at the lot service. The conductor shall be insulated and identified by a green color.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871 and 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2164. Feeder Assembly.

The neutral conductor and the equipment grounding conductor of the feeder assembly supplying service equipment shall be connected to the grounding electrode at each lot service enclosure.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2166. Grounding Conductors.

Only copper grounding conductors shall be used to connect electrical systems to a grounding electrode. Grounding conductors shall be protected from physical damage by cabinet enclosures, raceways or cable armor.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2170. Protection of Outdoor Equipment.

(a) All electrical equipment, including switches, circuit breakers, receptacles, lighting fixtures, control equipment, and metering devices located in either damp or wet locations or outside of a unit, accessory building or structure, or a building component designed as a weatherproof

structure shall be constructed of, or installed in, equipment approved for damp or wet locations.

(b) Meter sockets, without meters installed, shall be blanked off with an approved blanking plate before the service is energized.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2176. Aluminum Conductors.

(a) Connections of aluminum conductors shall be made only inside boxes or equipment enclosures which are designed and installed to prevent the entry or accumulation of moisture within the enclosure.

(b) Only connectors which are listed for use with aluminum conductors shall be used to connect aluminum conductors. If more than one conductor is connected to a connector, the connector shall be provided with a terminal fitting for each conductor.

(c) Prior to inserting an aluminum conductor into the connector, the conductor from which the insulation has been removed shall be wire–brushed and sealed with an approved oxide–inhibiting joint compound.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2178. Mechanical Protection.

Where subject to physical damage from vehicular traffic or other causes, the lot service equipment shall be protected by posts, fencing or other barriers approved by the enforcement agency.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2180. Lot Service Equipment.

(a) The rating of the overcurrent protection in the lot service equipment shall not exceed the rating of the connected feeder assembly. Lot service equipment may contain any or all of the approved receptacles conforming with section 2186 of this chapter.

(b) Lot service equipment may also contain the means for supplying accessory structures or other electrical equipment located on the lot, provided the lot service equipment is designed and listed for such application.

(c) Only one (1) power supply connection shall be made to a unit.

(d) Lot service equipment may also contain additional receptacles for supplying portable electrical equipment, provided that such receptacles are listed grounding–type receptacles. All 120–volt, single–phase, 15– and 20–ampere receptacle outlets in lot service equipment shall be protected by ground–fault circuit protection. The requirement for ground–fault circuit protection shall not apply to equipment or installations constructed, installed, or approved for construction or installation prior to September 1, 1975.

(e) When an electrical meter is installed as an integral component of the lot service equipment, it shall be of a class or rating that will accurately measure all loads up to the rated ampacity of the lot service equipment.

NOTE: Authority cited: Sections 18865 and 18871.10, Health and Safety Code. Reference: Sections 18871, 18871.10 and 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2182. Installation of Lot Service Equipment.

(a) Approved lot service equipment supplied by underground feeders may be of the self–supporting type and shall be stabilized by concrete not less than three and one–half (3 1/2) inches thick and surrounding the equipment base by not less than six (6) inches beyond the equipment base in all directions.

(b) Approved lot service equipment supplied by underground feeders requiring installation on a mounting post shall be securely fastened to a nominal four (4) inches by four (4) inches redwood or pressure treated post or equivalent. The post shall be installed not less than 24 inches in the earth and stabilized by a concrete pad. The concrete pad shall be not less than three and one–half (3 1/2) inches thick, surrounding the post base by not less than six (6) inches beyond the post base in all directions. The equipment shall be mounted with the bottom of the equipment not less than twelve (12) inches above the stabilizing concrete pad.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2183. Access to Electrical Equipment.

All park or lot service equipment shall be accessible by an unobstructed entrance or passageway not less than twenty–four (24) inches in width and seventy–eight (78) inches high, and shall have a working space not less than thirty (30) inches wide and thirty–six (36) inches deep in front of and centered on the service equipment. The lot service equipment shall be located and maintained not less than twelve (12) inches nor more than seventy–eight (78) inches above the stabilizing pad.

EXCEPTION: parks constructed prior to July 1, 1979, shall have a working space not less than 30 inches wide and 30 inches deep in front of and centered on the service equipment.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871 and 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2185. Electrical Appliances and Equipment.

(a) When electrical equipment or fixed appliances are installed to serve an accessory structure, the installation shall be supplied by means of a permanent wiring method to the lot service equipment, provided the lot service equipment is designed and listed for the additional load.

(b) If the park electrical system or the feeder supplying the lot electrical service equipment does not have the ampacity to supply the equipment in addition to its connected load, a permit to construct, as required in section 2018 of this chapter, shall be obtained for alteration of the required service supply and equipment.

(c) All electrical appliances and equipment not located within enclosed weatherproof structures must be approved for use in wet locations.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. New subsection (c) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2186. Lot Receptacles.

(a) A receptacle used to supply electrical energy to a unit shall conform with the American National Standards Institute–National Electrical Manufacturers Association (ANSI–NEMA) Standard, WD–6, 1997 for one of the following configurations:

(1) 125/250 volts, 50–amperes, 3 pole, 4 wire, grounding type for 120/240 volt systems.

(2) 125 volts, 30–amperes, 2 pole, 3 wire, grounding type for 120 volt systems.

(3) 125 volts, 20–amperes, 2 pole, 3 wire, grounding type for supplying units having only one 15 or 20–ampere branch circuit.

(b) ANSI–NEMA Standards may be obtained on–line from www.nema.org or by calling (703) 841–3200 or by writing to NEMA, Communications Department, 1300 North 17th Street, Rosslyn, Virginia, 22209.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2188. Existing Electrical Installations.

(a) Lot service equipment shall have the capacity to supply the unit, appliance, accessory building or structure, and building component located on the lot. The park operator may prohibit the installation of a unit, appliance, accessory building or structure, or building component that exceeds the rated capacity of the lot electrical service, unless the load in the unit, appliance, accessory building or structure, or building component is reduced. If the unit or electrical appliance is allowed to be installed by the park and the connected load on the lot exceeds the rated capacity of the lot electrical service equipment, the lot electrical service equipment and feeders shall be replaced with equipment and conductors properly rated to supply the unit, appliance, or accessory building or structure. Notwithstanding the provisions of this subsection, park approval is required when an alteration or addition to the existing electrical system of the unit, appliance, accessory building or structure, or building component will exceed the rated capacity of the lot service equipment.

(b) The enforcement agency may order unsafe installations of existing electrical systems or portions thereof to be reconstructed or altered, if necessary for the protection of life and property.

(c) The use of electrical equipment and installations in existence prior to the effective date of applicable amendments to this chapter may be continued, provided such equipment and installations are maintained in safe operating condition and the calculated connected loads do not exceed the rated ampacity of such equipment and installations.

(d) Lot electrical service equipment may continue supplying accessory buildings or structures or building components or other electrical equipment located outside the unit, provided the lot electrical service has the capacity to serve them and the equipment is maintained in a safe operating condition.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871, 18871.10, 18872 and 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2190. Authority to Order Disconnect — Electrical.

The enforcement agency is authorized to require any electrical installation or equipment found to be defective, and in such condition as to endanger life or property, to be disconnected. Installations which have been disconnected shall not be re–energized until a permit has been obtained to repair the electrical installation or equipment and the work has been inspected and approved by the enforcement agency.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871 and 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 4. Fuel Gas Requirements

§ 2200. Application and Scope.

(a) The requirements of this article shall apply to the construction, installation, arrangement, alteration, use, maintenance, and repair of fuel gas equipment and installations for supplying fuel gas to parks, and units in all parts of the state.

(b) Existing construction, connections, and installations of fuel gas made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Sections 18865, 18872 and 18873.4, Health and Safety Code. Reference: Sections 18872 and 18873.4, Health and Safety Code.

HISTORY

1. New article 4 (sections 2200–2236) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2206. Federal Regulations.

A park gas piping distribution system is subject to the Pipeline Safety Law of 1994 and regulations adopted by the Office of Pipeline Safety Operations. The applicable regulations are contained in Title 49 of the Code of Federal Regulations, Parts 191 and 192.

(a) The operator of a park gas piping system is responsible for complying with the federal regulations in addition to this chapter. A permit is not required from the enforcement agency for the installation of cathodic protection if the existing gas piping system is not otherwise altered.

This chapter does not prohibit the installation of cathodic protection systems and requirements for corrosion control of buried or submerged metallic gas piping systems required by the federal regulations in existing systems. If there is any conflict between the provisions of this chapter and the federal regulations, the provisions of the federal regulations shall prevail.

(b) Plans and specifications for the installation of a metallic gas piping system shall specify methods of protecting buried or submerged pipe from corrosion, including cathodic protection, unless it can be demonstrated that a corrosive environment does not exist in the area of installation. The design and installation of a cathodic protection system shall be carried out by, or under the direction of, a person qualified by experience and training in pipeline corrosion methods so that the cathodic protection system meets the requirements of Title 49 of the Code of Federal Regulations, Parts 191 and 192.

(1) All buried or submerged metallic gas piping shall be protected from corrosion by approved coatings or wrapping materials. All gas piping protective coatings shall be approved types, machine applied, and conform to recognized standards. Field wrapping shall provide equivalent protection and is restricted to those short sections and fittings necessarily stripped for threading or welding. Risers shall be coated or wrapped to a point at least six (6) inches above grade.

(2) All metallic gas piping systems shall be installed in accordance with plans and specifications approved by the enforcement agency, including provisions for cathodic protection. When the cathodic protection system is designed to protect only the gas piping system, the gas piping system shall be electrically isolated from all other underground metallic systems or installations. When a cathodic protection system is designed to provide all underground metallic systems and installations with protection against corrosion, all such systems and installations shall be electrically bonded together and protected as a whole.

(3) When non–metallic gas piping is installed underground, a locating tape or No. 18 AWG or larger copper tracer wire shall be installed with and attached to the underground piping for the purpose of locating the piping system. The locating tape or tracer wire shall terminate above grade at an accessible location at one or more ends of the piping system. Every portion of a plastic gas piping system consisting of metallic risers or fittings shall be cathodically protected against corrosion.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2208. Basic Fuel Gas Regulations.

(a) Except as otherwise permitted or required by this article, all fuel gas equipment and installations for supplying fuel gas to units or accessory buildings or structures, and fuel gas piping systems outside of permanent buildings in parks, shall comply with the requirements found in the California Plumbing Code, Chapter 12.

(b) The requirements for fuel gas equipment and installations within permanent buildings in parks are located in the California Mechanical Code, and the California Plumbing Code unless provided otherwise in

this chapter. However, in a city, county, or city and county, which has assumed responsibility for enforcement of the Mobilehome Parks Act and Special Occupancy Parks Act, pursuant to sections 18300 and 18865 of the Health and Safety Code, and has adopted and is enforcing a plumbing and mechanical code equal to or greater than the requirements of The California Plumbing Code and California Mechanical Code, may enforce its code as it pertains to permanent buildings.

NOTE: Authority cited: Sections 18865 and 18873.4, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2210. Liquefied Petroleum Gas (LPG).

All LPG equipment and installations exceeding 125 US gallons shall comply with the applicable provisions of the Unfired Pressure Vessel Safety Orders, California Code of Regulations, Title 8, Chapter 4, Subchapter 1, unless otherwise provided by this chapter.

NOTE: Authority cited: Sections 18865 and 18873.4, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2211. LPG Tanks.

(a) LPG tank installations in parks must conform to the provisions related to LPG tanks contained in Article 82 of the California Fire Code.

(b) Units designed and constructed with securely mounted tanks may be served by either the lot or mounted tanks, but not by both at the same time.

(c) A permit from the enforcement agency is required to install any LPG fuel tank exceeding sixty 60 U. S. gallons.

(d) LPG tanks shall be designed and constructed in accordance with nationally recognized standards for unfired pressure vessels.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2212. Prohibited Location of Tanks.

(a) No LPG tank greater than five (5) U.S. gallons shall be stored or located in any of the following locations:

(1) within five (5) feet of any source of ignition (lot electrical service is not a source of ignition);

(2) within five (5) feet of any mechanical ventilation air intake;

(3) under any unit or habitable accessory building; or

(4) within any structure or area where three (3) or more sides are more than fifty (50) percent closed.

(b) No LPG tank shall be filled within ten (10) feet of a source of ignition, openings into direct–vent (sealed combustions system) appliances, or any mechanical ventilation air intake.

(c) An LPG system within a motor–driven vehicle or recreational vehicle is exempt from the requirements of subsections (a) and (b).

(d) An LPG tank may be located under a ventilated snow cover. The snow cover shall not be enclosed or connected to any other structure and shall not extend more than one (1) foot beyond the tank in any horizontal direction.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2216. Installation.

(a) All gas piping installed below ground shall have a minimum earth cover of eighteen (18) inches.

(b) Gas piping shall not be installed underground beneath buildings, concrete slabs or other paved areas of a lot directly abutting the unit, or that portion of the lot reserved for the location of units, or accessory or structures, unless installed in a gastight conduit.

(1) The conduit shall be pipe approved for installation underground beneath buildings and not less than schedule 40 pipe. The interior diameter of the conduit shall be not less than one–half (1/2) inch larger than the outside diameter of the gas piping.

(2) The conduit shall extend to a point not less than twelve (12) inches beyond any area where it is required to be installed, any potential source of ignition or area of confinement, or the outside wall of a building, and the outer ends of the conduit shall not be sealed. Where one (1) end of the conduit terminates within a building, it shall be readily accessible and the space between the conduit and the gas piping shall be sealed to prevent leakage of gas into the building.

(c) A carport or awning roof may extend over an individual lot gas piping lateral and outlet riser, provided the completed installation complies with all other requirements of this chapter and the covered area is ventilated to prevent the accumulation of gas.

(d) The use of gas piping in parks constructed prior to June 25, 1976, that was originally installed under the area to be occupied by the unit or accessory building or structure, may be continued provided the piping is maintained in a safe operating condition.

NOTE: Authority cited: Sections 18865, 18865.05 and 18872, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (a) and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2218. Park Gas System Shutoff Valve.

A readily accessible and identified shutoff valve controlling the flow of gas to the entire park–owned gas piping system shall be installed at the point of connection to the service piping or supply connection.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2220. Lot Gas Shutoff Valve.

(a) Each lot shall have a gas shutoff valve, listed for its intended use by a department–approved listing agency, installed in a readily accessible location upstream of the lot gas outlet.

(b) The valve shall be located on the lot gas riser outlet at a height of not less than six (6) inches above grade.

(c) The lot gas shutoff valve shall not be located under or within any unit, or accessory building or structure.

EXCEPTION: gas shut–off valves may be located under an awning or carport that is not enclosed complying with Article 9 of this chapter.

(d) Whenever the lot gas riser outlet is not in use, it shall be closed with an approved cap or plug to prevent accidental discharge of gas.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2222. Lot Gas Outlet.

(a) The gas riser outlet shall terminate within four (4) feet of the unit, or proposed location of the unit on the lot.

(b) Each unit connected to the gas riser outlet shall be connected by a listed flexible gas connector in accordance with section 2354 of this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2226. Gas Meters.

(a) When gas meters are installed, they shall not depend on the gas riser outlet for support. Gas meters shall be adequately supported by a post and bracket or by other means approved by the enforcement agency.

(b) Meters shall not be installed beneath units, in unventilated or inaccessible locations, or closer than three (3) feet from sources of ignition. The unit electrical service equipment shall not be considered a source of ignition when not enclosed in the same compartment with a gas meter.

(c) All gas meter installations shall be provided with a shutoff valve or cock located adjacent to and on the inlet side of the meter. In the case of a single meter installation utilizing an LPG tank, the tank service valve may be used in lieu of the shutoff valve or cock.

(d) Each meter installed shall be in a readily accessible location and shall be provided with unions or other fittings so as to be easily removed and replaced while maintaining an upright position.

NOTE: Authority cited: Sections 18865 and 18873.4, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (c) and repealer of subsection (e) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2228. Mechanical Protection.

Where subject to physical damage from vehicular traffic or other causes, all gas riser outlets, regulators, meters, valves, tanks, or other exposed equipment shall be protected by posts, fencing, or other barriers approved by the enforcement agency.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2229. Regulator and Relief Vents.

Atmospherically controlled regulators shall be installed in such a manner that moisture cannot enter the regulator vent and accumulate above the diaphragm. Where the regulator vent may be obstructed because of snow or icing conditions, a shield, hood, or other device approved by the enforcement agency shall be provided to guard against closing the vent opening.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2230. Required Gas Supply.

(a) The minimum hourly volume of gas required at each lot outlet, or any section of a park gas piping system shall be calculated as shown in Table 2230–1.

(b) Required gas supply for other fuel gas consuming appliances connected to the park gas piping system shall be calculated as provided in the California Plumbing Code, Chapter 12.

Table 2230–1

Demand Factors for Use in Calculating Gas Piping Systems in Parks

Number of Lots	*BTU Per Hours Per Lot*
1	125,000
2	117,000
3	104,000
4	96,000
5	92,000
6	87,000
7	83,000
8	81,000
9	79,000
10	77,000
11–20	66,000
21–30	62,000
31–40	58,000
41–60	55,000
Over 60	50,000

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2232. Gas Pipe Size.

The size of each section of a gas piping system shall be calculated as provided in the California Plumbing Code, Chapter 12 or by other standard engineering methods acceptable to the enforcement agency.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2236. Authority to Order Disconnect of Fuel Gas Equipment.

(a) The enforcement agency shall require the gas utility or person supplying gas to a park to disconnect any gas piping or equipment found to be defective and in such condition as to endanger life or property.

(b) Gas piping or equipment which has been ordered disconnected by the enforcement agency shall not be reconnected to a gas supply until a permit has been obtained to repair, alter or reconstruct the gas piping and the work has been inspected and approved by the enforcement agency.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871 and 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 5. Plumbing Requirements

§ 2240. Application and Scope.

(a) The requirements of this article shall apply to the construction, installation, arrangement, alteration, use, maintenance, and repair of all plumbing equipment and installations to supply water to, and dispose of sewage from, units, accessory buildings or structures and permanent buildings in all parts of the state.

(b) Existing plumbing construction, connections, and installations made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Sections 18865, 18871.4, 18872 and 18873.1, Health and Safety Code. Reference: Section 18871.4, 18872 and 18873.1, Health and Safety Code.

HISTORY

1. New article 5 (sections 2240–2284) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2246. Basic Plumbing Regulations.

(a) Except as otherwise permitted or required by this article, all requirements for plumbing equipment and installations outside of permanent buildings in parks shall comply with the California Plumbing Code, with the exception of Chapter 1.

If there is any conflict between the provisions of this chapter and the California Plumbing Code, the provisions of this chapter shall prevail.

(b) All requirements for plumbing equipment and installations within permanent buildings in parks shall comply with the California Plumbing Code, except in a city, county, or city and county, which has assumed enforcement responsibility and has adopted, and is enforcing, a plumbing code equal to or greater than the requirements of this article.

NOTE: Authority cited: Sections 18865 and 18873.1, Health and Safety Code. Reference: Sections 18865 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2248. Sewage Disposal.

(a) All park drainage systems shall discharge into a public sewer or a private sewage disposal system approved by the local health department.

(b) Septic tanks shall not be located within five (5) feet of any unit, accessory building or structure, or permanent building. Leach or disposal fields shall not be located within eight (8) feet of any unit, accessory building or structure, or permanent building.

(c) Recreational vehicle drain outlets shall discharge into the park drainage system, or a closed, vented container approved by the local health department.

(d) Recreational vehicles occupying lots without drain inlets, or approved containers, shall have the drain outlets of the vehicles capped with a gas–tight cover.

(e) Any alternative means of sewage removal and disposal in a park shall be approved by the local health department.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.4 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2252. Installation.

Listed nonmetallic pipe and fittings installed in park drainage systems shall be installed in accordance with their listing and applicable standards. When installed under roadways, minimum depth of cover for nonmetallic drain pipe shall be thirty–six (36) inches. The pipe shall be bedded on a minimum of three (3) inches of clean sand and shall be backfilled with a minimum cover depth of six (6) inches of clean sand, granulated earth or similar material. The trench shall then be backfilled in thin layers to a minimum of twelve (12) inches above the top of the nonmetallic pipe with clean earth, which shall not contain stones, boulders or other materials, which would damage or break the pipe.

NOTE: Authority cited: Sections 18865 and 18873.1, Health and Safety Code. Reference: Sections 18872 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2254. Drain Inlet.

(a) On lots provided with a drain inlet for a unit, the drain inlet shall be not less than three (3) inches in diameter and shall be connected to an approved sewage disposal system.

(b) When drain inlets are provided, they shall accommodate a threaded or clamp–type fitting for connecting drain connectors at proper grade. The drain inlet shall be accessible at ground level. The vertical riser of a drain inlet shall not exceed three (3) inches in height above the concrete supporting slab. Drain inlets shall be gas–tight when not in use.

(c) Each drain inlet shall be protected from movement by being encased in a concrete slab not less than three and one–half (31/2) inches thick and which surrounds the inlet by not less than six (6) inches on any side.

(d) In parks constructed after July 7, 2004, that contain lot drain inlets, the opening of the drain inlet shall not extend above the surrounding concrete. The surface of the concrete surrounding the drain inlet shall be smooth finished concrete and shall slope a minimum of one–quarter (1/4) inch per foot from the outer edge to the inner edge of the drain inlet.

(e) Drain inlets and extensions to grade shall be of material approved for use under or within a building.

(f) The lot drain inlet shall be located within four (4) feet of the outside of the unit.

NOTE: Authority cited: Sections 18865 and 18873.1, Health and Safety Code. Reference: Section 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (e) filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2258. Trap.

(a) A lot drain inlet shall be provided with a trap except where:

(1) a recreational vehicle manufactured prior to January 1, 1999, is bearing an insignia of approval issued by the department, or

(2) a recreational vehicle manufactured on or after January 1,1999, bearing a label or insignia indicating that the recreational vehicles manufacturer's construction and designs comply with either the American National Standards Institute (ANSI) Standard on recreational vehicles, A119.2, or the ANSI Standard on recreational vehicle park trailers, A119.5, is connected to the lot drain inlet.

(b) The park operator shall obtain the necessary permits from the enforcement agency and shall install the required trap and vent on the lot drain inlet for all lots designed for accommodating vehicles not bearing a department insignia of approval or evidence of compliance with applicable ANSI standards.

(c) When a unit is installed, or proposed to be installed and its plumbing fixtures are not protected by approved traps and vents, a lot drain inlet shall be provided with an approved trap.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2260. Venting.

Where a drain inlet trap is provided, it shall be individually vented with a vent pipe of not less than two (2) inches interior diameter unless the system is a wet vented system as provided in section 2264 of this article.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2262. Vent Location and Support.

All vent pipes in outdoor locations shall be located at least ten (10) feet from an adjoining property line and shall extend at least ten (10) feet above ground level. All vent pipes shall be supported by at least the equivalent of a four (4) inch by four (4) inch nominal dimension redwood post securely anchored in the ground. One–piece galvanized iron vent pipes may be self–supporting if securely anchored at their base in concrete at least, twelve (12) inches in depth and extending a minimum four (4) inches out from the pipe.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2264. Wet Vented Systems.

(a) In lieu of the individual vents, the park drainage system may be wet vented by means of a combination drain, waste, and vent system. Wet vented systems in which the trap for one or more lots is not individually vented shall be of sufficient size and provided with an adequate vent or vents to assure free circulation of air. Wet vented drainage systems may be permitted only when each such system conforms to Table 2268–1 and Table 2268–2 and all of the following requirements for such systems:

(1) A wet vented drainage system shall have a terminal vent installed not more than fifteen (15) feet downstream from the uppermost trap on any branch line and shall be relief vented at intervals of not more than one hundred (100) feet or portion thereof.

(2) Wet vented drainage laterals shall be not more than six (6) feet in length for three (3) inch diameter pipe and not more than fifteen (15) feet in length for four (4) inch diameter pipe.

(3) No vertical drain pipe shall be permitted in any wet vented drainage system, except the tail pipe of the trap or riser of the drain inlet. Tail pipes shall be as short as possible, and in no case shall exceed two (2) feet in length.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2266. Systems Without Traps.

Terminal or relief vents are not required for drainage systems without traps.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2268. Pipe Size.

(a) Each lot drain inlet shall be assigned a waste loading value of six (6) fixture units and each park drainage system shall be sized according to Table 2268–1 or as provided herein. Drainage laterals shall be not less than three (3) inches in diameter.

(b) A park drainage system in which the grade, slope, or sizing of drainage pipe does not meet the minimums specified in Tables 2268–1 or 2268–2 shall be designed by a registered engineer for a minimum velocity flow of two (2) feet per second.

(c) Park drainage systems installed without P–traps or vents may be sized for individually vented systems in accordance with Table 2268–1 for individually vented systems.

(d) A park drainage system which exceeds the fixture unit loading of Table 2268–1 shall be designed by a registered engineer.

Table 2268–1
Drainage Pipe Diameter and Number of Fixture Units on Drainage System

Size of Drainage Pipe (Inches)	*Maximum No. of Fixture Units Individually Vented System*	*Maximum No. of Fixture Units Wet Vented System*	*Terminal & Relief Vent Wet Vented System (Inches)*
3	35	14	2
4	180	35	3
5	356	180	4
6	600	356	4

Table 2268–2
Minimum Grade and Slope of Drainage Pipe

Pipe Size (inches)	*Slope per 100 ft. (inches)*	*Pipe Size (inches)*	*Slope per 100 ft. (inches)*
2	25	6	8
3	20	8	4
4	15	10	3 1/2
5	11	12	3

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2269. Recreational Vehicle Sanitation Stations.

(a) Recreational vehicle sanitation stations shall be provided in an accessible location.

(b) One recreational vehicle sanitation station shall be provided for each one hundred (100) lots or portion thereof not provided with three (3) inch drain inlets.

(c) Recreational vehicle sanitation stations are not required in tent camps, incidental camping areas, or dry camps, but if provided, they shall comply with the requirements of this Article.

NOTE: Authority cited: Section 18865.1, Health and Safety Code. Reference: Sections 18865.1, 18871.3, 18871.4 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2270. Sanitation Station Specifications.

(a) Each recreational vehicle sanitation station shall be provided with a drain inlet not less than four (4) inches in diameter, discharging into a trap not more than twenty–four (24) inches below the drain inlet. The drain inlet shall be equipped with a hinged cover, which shall effectively close the drain inlet when not in use.

(b) Each drain inlet shall discharge into a drainage lateral not less than four (4) inches in diameter connected to a public sewer or private sewage disposal system.

(c) The drain inlet of each recreational vehicle sanitation station shall be set in a concrete drain receptor not less than three and one–half (3 1/2) inches in thickness and not less than two (2) feet horizontally from the drain inlet to the inside of the surrounding curb. The surrounding curb shall be at least four (4) inches wide and two (2) inches above the floor of the receptor. The inside surface of the drain receptor shall be smooth finished concrete and shall slope a minimum of one–fourth (1/4) inch per foot from the bottom of the curb to the lip of the drain inlet.

(d) A three–quarter (3/4) inch water hose connection shall be installed at each recreational vehicle sanitation station to allow connection of a hose for wash–down operation. A listed and approved backflow preventing vacuum breaker shall be permanently installed in the water service pipe at least six (6) inches above the highest point of usage. Provisions shall be made to store the wash–down hose off the ground.

(e) A sign providing operating instructions shall be posted at all recreational vehicle sanitation stations.

NOTE: Authority cited: Section 18865.1, Health and Safety Code. Reference: Sections 18865.1, 18871.3, 18871.4 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2272. Sanitation Station Warning Sign.

(a) A warning sign shall be located immediately adjacent to the hose connection of the recreational vehicle sanitation station and shall read:

DANGER, UNSAFE WATER

Use this hose to flush holding tank and drain receptor **ONLY.**

(b) The warning sign shall be not less than eighteen (18) inches by twenty–four (24) inches and lettered in minimum size of not less than one (1) inch lettering in a color contrasting with the background.

NOTE: Authority cited: Section 18865.1, Health and Safety Code. Reference: Sections 18865.1, 18871.3, 18871.4 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2274. Lot Water Service Outlet.

(a) Each lot provided with a lot drain inlet shall be provided with a lot water service outlet delivering safe, pure, and potable water. The lot water service outlet riser shall be not less than three–quarter (3/4) inch nominal pipe size. Lots may be provided with a lot water service outlet where no lot drain inlet has been installed.

(b) Each lot water service outlet shall be provided with an accessible water outlet designed for connecting a three–fourths (3/4) inch female swivel hose connection for emergency use, in addition to the unit water connection.

(c) Where lot water service outlets are not provided, water pipe risers shall be installed throughout the special park occupancy area for the supply of potable water and fire suppression. Gravel, crushed rock, or other approved material shall be provided at the base of each water pipe riser as necessary to prevent the accumulation of standing water or muddy conditions. Water pipe risers shall be installed within one hundred (100) feet of all lots not provided with lot water service outlets.

(d) Potable water need not be supplied in an incidental camping area if it is designated as a "dry camp" and occupants are so notified by the operator. If water is supplied, it shall be safe, pure, and potable and adequate for all the requirements of the incidental camping area.

NOTE: Authority cited: Section 18865.1, Health and Safety Code. Reference: Sections 18870.1 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2276. Pressure.

(a) Parks constructed between July 11, 1979, and July 6, 2004, shall have water distribution systems capable of providing a pressure not less than fifteen (15) pounds per square inch at each lot at maximum operating conditions. Parks constructed before and after the above dates must be capable of maintaining twenty (20) pounds per square inch at maximum operating conditions.

(b) The testing of a water system in a park to determine the maximum operating condition shall be either performed at the reported time of maximum water pressure loss, if within normal business hours, or measured with twenty–five (25) percent of the required lot water supply outlets, as defined in section 2308 of this chapter, open with the pressure metering device at the end of the tested line.

NOTE: Authority cited: Sections 18865 and 18873.1, Health and Safety Code. Reference: Sections 18865 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
2. Editorial correction of HISTORY 1 (Register 2005, No. 33).

§ 2278. Water Pipe Size.

(a) The quantity of water required to be supplied to each lot provided with a drain inlet shall be as required for six (6) fixture units.

(b) Park water distribution systems shall be designed and installed as set forth in the California Plumbing Code, Chapter 6, and Appendix A.

NOTE: Authority cited: Sections 18865 and 18873.1, Health and Safety Code. Reference: Section 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2280. Mechanical Protection.

Where subject to physical damage, all park water service outlets shall be protected by posts, fencing, or other barriers approved by the enforcement agency.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2284. Water Conditioning Equipment.

(a) A permit shall be obtained from the enforcement agency prior to installing any regenerating water conditioning equipment on a lot. Approval of the park operator is required on all applications for a permit to install such equipment. Where the water conditioning equipment is of the regenerating type, and the park drainage system discharges into a public sewer, approval of the sanitary district or agency having jurisdiction over the public sewer is required prior to issuance of the permit.

(b) Regenerating water conditioning equipment shall be listed and labeled by an approved listing agency.

(c) Regenerating units shall discharge the effluent of regeneration into a trap not less than one and one–half (11/2) inches in diameter connected to the park drainage system. An approved air gap shall be installed on the discharge line a minimum of twelve (12) inches above the ground. The trap need not be vented.

(d) Electrical supply connections to regenerating water conditioning equipment shall comply with the requirements of this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18873.1 and 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 6. Fire Protection Standards for Parks

§ 2300. Application and Scope.

(a) For parks with a permit to construct dated on or after July 7, 2004, fire protection equipment meeting the requirements of the National Fire Protection Association (N.F.P.A.) Standard No. 24, 1995 Edition, which is hereby incorporated by reference, shall be installed and maintained in every park consisting of fifteen (15) or more lots, or parks enlarged to consist of fifteen (15) or more lots. Installation of fire protection equipment is required only for the new lots added.

(b) For parks with a permit to construct dated between September 1, 1968, and July 7, 2004, Fire protection equipment meeting the requirements of the National Fire Protection Association (N.F.P.A.) Standard No. 24,1977 Edition, which is hereby incorporated by reference, shall be maintained in every park consisting of 15 or more lots.

(c) Testing of Private Fire Hydrants. Park owners and operators shall be responsible for the operation and water flow requirements of all private fire hydrants installed in any park, regardless of its age or number of lots in the park, and responsible for compliance with other applicable provisions of this article.

(d) Reciprocity of Enforcement Agencies. The provisions of section 2302 and sections 2316 through 2318 of this article, do not create any obligation for the enforcement agency to report violations to a fire agency, or for the fire agency to report violations to the enforcement agency. However, this subsection does not preclude either enforcement agencies or fire agencies from sharing information related to fire prevention or suppression in parks.

NOTE: Authority cited: Sections 18865 and 18873.5, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

HISTORY

1. New article 6 (sections 2300–2319) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2302. Local Fire Prevention Code Enforcement.

(a) When the department is the enforcement agency, a fire agency, as defined in this chapter, may elect to assume responsibility to enforce its fire prevention code in parks, within its jurisdictional boundaries, by providing the department with a written thirty (30)–day notice pursuant to Health and Safety Code section 18873.5 (d).

(b) The written notice assuming enforcement responsibilities for fire prevention shall clearly identify the geographical boundaries of the jurisdiction of the fire agency and include the name and address of each park located within these geographical boundaries.

(c) The fire agency that has assumed responsibility to enforce its fire prevention code in parks within its jurisdictional boundaries pursuant to this article, shall do all of the following:

(1) Enforce its fire prevention code as it applies to each of the following areas: fire hydrant systems, water supply, fire equipment access, posting of fire equipment access, parking, lot identification, weed abatement, debris abatement, combustible storage abatement and burglar bars.

(2) Apply its fire prevention code provisions only to conditions:

(A) that arise after the adoption of its fire prevention code;

(B) not legally in existence at the adoption of its fire prevention code; or

(C) that, in the opinion of the fire chief, constitute a distinct hazard to life or property.

(3) Upon assuming responsibility to enforce its fire prevention code in parks within its jurisdictional boundaries, the fire agency shall notify all park operators within thirty (30) days of the assumption of enforcement responsibility.

(A) This notification shall include identification of the specific applicable codes that will be enforced, where copies of the identified codes may be obtained, and the scope and proposed time frame of any established or proposed inspection program.

(B) The park operator shall post a copy of the notification in the park as near as possible to the location where the annual permit to operate is posted in order to advise the occupants of the park of the change in enforcement jurisdiction.

(d) A fire agency that has assumed responsibility for enforcement of its fire prevention code, pursuant to this article and Section 18873.5 of the Health and Safety Code, shall also be deemed to have assumed fire prevention enforcement responsibility within its jurisdictional boundaries, for all mobilehome parks, as set forth in Title 25, California Code of Regulations, commencing with Section 1300 and Section 18691 of the Health and Safety Code,

(e) If a fire agency, that has assumed responsibility to enforce its fire prevention code in parks within its jurisdictional boundaries, decides to cancel its responsibility, it shall provide the following:

(1) A written notice to the department not less than thirty (30) days prior to the proposed cancellation date.

(2) A written cancellation notice clearly identifying the geographical boundaries of the jurisdiction, for which the fire agency is returning enforcement, and includes the name and address of each park located within these geographical boundaries.

(3) A written notification to all park operators within its jurisdictional boundaries of the cancellation of enforcement responsibility prior to the date of cancellation of enforcement responsibility. The notice shall contain the date of transfer for enforcement responsibility and a statement to the park operator to post the notice.

(A) The park operator shall post a copy of the notification in the park as near as possible to the location where the annual permit to operate is posted in order to advise the occupants of the park of the change in enforcement jurisdiction.

(4) Transfer all park records to the department on or before the effective date of the transfer of enforcement responsibility.

(f) A fire agency canceling its responsibility for enforcement of its fire prevention code, according to this article and Section 18873.5 of the Health and Safety Code, shall also be deemed to have canceled its fire prevention enforcement responsibility, within its jurisdictional boundaries, for all mobilehome parks, as set forth in Title 25, California Code of Regulations, commencing with Section 1300 and Section 18691 of the Health and Safety Code.

NOTE: Authority cited: Sections 18865 and 18873.5, Health and Safety Code. Reference: Sections 18865 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2304. Local Regulations.

(a) The provisions of this article are not applicable in parks located within a city, county, or city and county that is the enforcement agency and has adopted and is enforcing a fire prevention code imposing restrictions equal to or greater than the restrictions imposed by this article.

(b) Any reporting requirements imposed by the local agency fire prevention code shall be in addition to, and shall not replace, the reporting requirements of this article.

NOTE: Authority cited: Sections 18865 and 18873.5, Health and Safety Code. Reference: Sections 18865 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2305. Fire Fighting Instructions.

In areas where fire department services are not available the park operator shall be responsible for the instruction of park staff in the use of private park fire protection equipment and their specific duties in the event of fire.

NOTE: Authority cited: Sections 18865 and 18873.5, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2306. Permits Required.

No person shall construct, reconstruct, modify, or alter any installations relating to fire protection equipment within a park unless a written permit has been obtained from the enforcement agency with written evidence of approval from the fire agency responsible for fire suppression in the park.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18870, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2308. Lot Installations.

When water service is provided to a lot, each lot constructed shall have installed an accessible three–fourths (3/4)–inch valved water outlet with an approved vacuum breaker installed, designed for connecting a three–fourths (3/4)–inch female swivel hose connection for fire suppression use in addition to the water connection to the unit.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2310. Alternate Systems.

Where the required water supply is inadequate to comply with the provisions of this article and either outside protection, or local conditions justify reducing this requirement, other hydrant systems may be installed provided the alternate system is approved by the fire agency responsible for fire suppression in the park and by the enforcement agency.

NOTE: Authority cited: Sections 18865 and 18873.5, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2312. Private Systems.

In areas where fire department services are not available, as determined by the enforcement agency, a private fire protection system shall be installed and maintained consisting of hydrant or wet standpipe risers connected to the park water main or a separate system capable of delivering seventy–five (75) gallons per minute at thirty (30) psi with at least two lines open, in addition to the normal requirements of the park, and with the hydrants or wet standpipes located within seventy–five (75) feet of each lot. Each hydrant or wet standpipe shall be provided with an approved one and one–half (11/2) inch hose valve and connection with one (1) one and one–half (1 1/2) inch national standard male outlet and shall have connected thereto a minimum of seventy–five (75) feet of one and one–half (11/2) inch cotton or dacron jacketed rubber lined fire hose with an approved cone type nozzle with a minimum one–half (1/2) inch orifice. The fire hose shall be mounted on an approved hose rack or reel enclosed in a weather resistant cabinet which shall be painted red and marked "FIRE HOSE" in four (4) inch letters of contrasting color.

NOTE: Authority cited: Sections 18865, 18872, and 18873.5, Health and Safety Code. Reference: Sections 18872 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2314. Care of Equipment.

All fire protection and suppression equipment shall be protected against freezing in any areas subject to freezing.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2316. Private Fire Hydrant Operation and Water Flow Requirements.

(a) Private fire hydrants, as defined in this article, shall meet the operational requirements as prescribed in subsection (b) of this section, and

meet the water flow standards prescribed by subsection (c) of this section.

(b) Operation. Private fire hydrants shall have at least the following characteristics in order to be considered operational for the purposes of this article:

(1) valves that operate freely and are properly lubricated;

(2) threads and caps that are undamaged;

(3) reasonable protection from vehicular damage;

(4) outlets on hydrants are fourteen (14) inches to twenty–four (24) inches above grade. Standpipes outlets need not be a specific height, but must be readily accessible.

(5) Thirty–six (36) inches of unobstructed access around the hydrants;

(6) locators or markings to clearly identify their location; and

(7) each one and one–half (1 1/2) inch hydrant meets the requirements for hoses, locations, storage and storage cabinet marking as defined in section 2312 of this article.

(c) Water Flow. Private fire hydrants, as defined in this article, shall have water flow not less than any one of the following:

(1) Five hundred (500) gallons per minute with a minimum residual pressure of twenty (20) psi for a fire hydrant with a four (4) inch or larger barrel or riser, or

(2) Two hundred–fifty (250) gallons per minute with a minimum residual pressure of twenty (20) psi for a fire hydrant with a two and one–half (21/2) inch barrel or riser, or

(3) Seventy–five (75) gallons per minute with a minimum residual pressure of thirty (30) psi for a fire hydrant with a one and one–half (11/2) inch outlet with an approved one and one–half (11/2) inch hose as required in section 2312.

NOTE: Authority cited: Sections 18865 and 18873.5, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2317. Private Fire Hydrant Test and Certification.

(a) Verification of Private Fire Hydrant Test and Certification. The Private Fire Hydrant Test and Certification Report, a form defined in section 2002 of this chapter, shall be used to verify that private fire hydrants have been tested and certified for operation and water flow. All park operators shall submit the form, including parks that qualify for testing exceptions, to the enforcement agency for the park.

(b) Annual Test and Certification of Operation. Private fire hydrants shall be tested annually in order to determine that they are operational as specified in subsection 2316(b) of this article. Verification shall be submitted to the enforcement agency and to the fire agency responsible for fire suppression in the park, as required in section 2319 of this article. The annual hydrant operational test may be performed and verified by a park operator for the years between the five–year water flow tests. However, the five–year test and certification of water flow and the operational test performed at that time shall not be certified by the park operator. The five–year test and certification of water flow and the operational test shall only be certified by one of the entities listed in subsection (c) of this section.

(c) Five–Year Test and Certification of Water Flow and Operational Test.

(1) Private fire hydrants shall be tested and certified at least once every five (5) years for minimum water flow as prescribed in section 2316 of this article, as well as for operation as specified in subsection 1316(b) of this article. Certification shall be submitted to the enforcement agency and to the fire agency responsible for fire suppression in the park as required in section 2319 of this article.

(2) Parks existing prior to December 31, 2002, shall submit verification of their five–year test and certification for minimum water flow, beginning with the permit to operate renewal year 2008, after the initial water flow test has been completed.

(3) The five–year test and certification of the required water flow and the operational test shall be conducted during the 12 months prior to the renewal of each fifth year park permit to operate. The previous five–year renewal for the prior permit to operate must have complied with the required water flow standards set forth in section 2316 of this article.

(4) Testing for the required water flow shall be conducted in such a manner as to ensure there is no pollution of the storm drain system or any other water or drainage systems within, or serving, the park, and no damage to structures or improvements within or outside of the park.

(5) The test results reported on the designated form shall only be certified by one of the following:

(A) the fire agency responsible for fire suppression in the park,

(B) a local water supplier,

(C) a licensed C–16 Fire Protection Contractor, or

(D) a licensed Fire Protection Engineer.

(6) In order to certify the test results reported on the form, the fire agency responsible for fire suppression in the park, local water supplier, licensed C–16 fire protection contractor, or licensed Fire Protection Engineer shall witness the test. The fire agency responsible for fire suppression in the park, local water supplier, licensed C–16 fire protection contractor, or licensed Fire Protection Engineer, may also perform the test.

NOTE: Authority cited: Sections 18865, 18865.05, 18872 and 18873.5, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of section and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2318. Private Fire Hydrants With Violations.

(a) Correction of Violation. If, at any time, a test undertaken pursuant to this article, or any other test or event, indicates that a private fire hydrant is in violation of any provision of section 2316, within sixty (60) days of the date of the event or the test of the private fire hydrant, the park operator shall obtain a permit to construct from the park enforcement agency, and shall promptly begin and maintain activity to ensure the private fire hydrant meets the minimum requirements of this article. This timeframe may be extended for extenuating circumstances subject to approval by the enforcement agency.

(b) Approval to Use Existing Private Fire Hydrant. Where the water flow test of a private fire hydrant reveals a water flow less than that specified in subsection 2316(c) of this article, and it is determined that the private fire hydrant cannot be repaired to meet the water flow requirement, the park operator may request approval from the fire agency responsible for fire suppression in that park to continue using the existing private fire hydrant. Approval to use the existing private fire hydrant may be granted by an authorized agent for the fire agency responsible for fire suppression in the park, by signing Part VI on the form prescribed in subsection 2317(a).

NOTE: Authority cited: Sections 18865 and 18873.5, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2319. Private Fire Hydrant Compliance For Park Operation.

(a) Permits to operate shall not be issued for parks with private fire hydrants that do not meet the requirements of this article.

(b) When applying for or renewing a permit to operate, the park operator shall submit the original form prescribed in subsection 2317(a) to the enforcement agency, as defined in this article, and a copy forwarded to the fire agency responsible for fire suppression in the park.

(c) Provided a park meets all other requirements for obtaining or renewing a permit to operate, a permit to operate may be issued to a park where the form prescribed in subsection 2317(a), has been submitted to the enforcement agency and one of the following options exists:

(1) the form shows no violations;

(2) the water flow test reveals a water flow less than that specified in subsection 2316(c) of this article, and the park operator has obtained an approval for the continued use of the existing private fire hydrant from

the fire agency responsible for fire suppression in that park, pursuant to subsection 2318(b);

(3) a construction permit has been obtained and activity maintained to ensure the private fire hydrant meets the minimum requirements of this article;

(4) all violations of section 2316 are corrected, and a revised or final form as prescribed in section 2317(a), verifying the correction, has been submitted to the enforcement agency; or

(5) the system meets or exceeds the requirements approved at the time of its construction.

(d) Refusal to issue a permit to operate pursuant to this subsection shall not preclude a park enforcement agency from pursuing other enforcement remedies as provided by law, or the fire agency from pursuing enforcement remedies provided by applicable laws or ordinances.

(e) The enforcement agency shall maintain, for a minimum of six (6) years, all copies of the form prescribed in subsection 2317(a), which shall be available for review by the department.

NOTE: Authority cited: Sections 18865 and 18873.5, Health and Safety Code. Reference: Section 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsections (c)(2)–(4) and new subsection (c)(5) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

Article 7. Installations and Facilities

§ 2320. Application and Scope.

(a) When an MH–unit or commercial modular is installed in a special occupancy park pursuant to section 2118(b), the installation shall comply with Chapter 2 of this Division.

(b) Existing construction, connections, and installations of units, made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Sections 18865, Health and Safety Code. Reference: Section 18613, Health and Safety Code.

HISTORY

1. New article 7 (sections 2320–2360) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2322. Removal of Vehicle Towing Hitch and Wheels.

A recreational vehicle towing hitch shall not be removed from the vehicle unless it is designed to be removed and reinstalled. When the hitch has been removed from a unit, it shall be readily available for reinstallation. The wheels, vehicle axles, and their assemblies shall not be removed.

NOTE: Authority cited: Section 18865.1, Health and Safety Code. Reference: Section 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2324. Installation Permits.

(a) A permit shall be obtained from the enforcement agency each time a camping cabin is to be located or installed on any site in a park.

(b) A permit shall not be required for locating or installing a recreational vehicle on a lot.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18870, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2327. Camping Cabins.

(a) Camping cabin design, construction and installation shall comply with the requirements specified in sections 18862.5 and 18871.11 of the Health and Safety Code.

(b) Camping cabins shall meet the roof live load requirements for accessory structures in accordance with section 2433 of this chapter.

(c) All sleeping rooms shall have smoke alarms installed in accordance with Section 310.9 of the California Building Code. Alarms may be battery powered only when electrical service is not supplied to the cabin.

(d) Camping cabins shall not exceed four hundred (400) square feet as measured by the camping cabin's footprint, to include built–in porches or stairways contained within the original cabin footprint.

(e) When a camping cabin is required to meet accessibility requirements, it shall comply with the requirements specified in Chapter 11B of the California Building Code for parking, path of travel and access up to the camping cabin.

(f) A camping cabin shall be readily relocatable.

(g) Accessory structures for camping cabins shall comply with provisions of section 2422 of this chapter.

(h) Fuel burning heating or cooking appliances shall not be operated in a camping cabin.

(i) No plumbing of any kind shall be installed in a camping cabin.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18862.5 and 18871.11, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2328. Utility Facilities.

When utilities are supplied to a lot or site in a park, all connections to those utilities shall comply with the requirements of this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18872, 18873.1, 18873.3 and 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2330. Unit Separation and Setback Requirements Within Parks.

(a) In parks, or portions of parks, units shall not be located closer than six (6) feet from any permanent building or another unit.

(b) A unit shall be located a minimum of three (3) feet from all lot lines. However, a three (3) foot setback is not required from a lot line bordering a roadway when the roadway is located within the park.

(c) When a unit has projections, including eave overhangs, a minimum six (6) foot separation shall be maintained between the edge of any projection or eave overhang and an adjacent, unit, permanent building, combustible accessory building or structure and its projection, or eave overhang. A minimum of three (3) feet shall be maintained from the unit's projection or eave overhang and the adjacent lot line or property line. However, a unit may be installed up to a park roadway or common area provided there is no combustible building or structure in the common area within six (6) feet, and no building or structure of any kind within three (3) feet, of any portion of the unit. The maximum seventy–five percent (75%) lot coverage allowed by section 2110 of this chapter shall be maintained. Projections or eave overhangs shall not extend beyond a lot line bordering a roadway or common area.

(d) Lot lines shall be identified as prescribed by section 2104.

(e) Setback and separation requirements for accessory structures or buildings or building components installed prior to the effective date of this chapter, are contained in section 2428 of article 9.

NOTE: Authority cited: Sections 18865, 18865.05, 18872 and 18873, Health and Safety Code. Reference: Sections 18865, 18872, 18873 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (c) and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2333. Foundations.

A recreational vehicle or camping cabin shall not be permanently affixed to a lot or installed on a foundation system.

NOTE: Authority cited: Section 18865.1, Health and Safety Code. Reference: Sections 18871 and 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2334. Accessory Structure Support Piers and Footings.

(a) Load bearing piers shall be constructed of rust resistant materials or treated to resist rust and designed and constructed in accordance with the design requirements of California Building Code , Part 2, Chapters 16, 19, 21, 22 and 23. The required load bearing capacity of individual support piers and their footings shall be calculated at not less than a combined live and dead load of seventy–five (75) psf, based on roof live and dead load of twenty–five (25) psf and floor live and dead load of fifty (50) psf of the accessory structure.

(b) Load bearing piers, other than concrete block piers, shall be tested to determine the safe operating load. The tests shall be conducted by testing agencies approved by the department. Testing agencies shall provide a pier testing report to the department upon completion, regardless of the testing results. A unique number provided by the testing agency shall identify each test report. The following testing procedures shall be used:

(1) A compression test shall be performed on three (3) piers of the same height and construction, selected randomly at the pier manufacturing facility by a representative of the testing agency.

(A) The compression test shall be performed on piers with all required design assemblies installed, such as adjustable tops, clamps, securement devices or similar assemblies.

(B) The selected piers shall be subjected to the compression test with each pier, fully assembled as will be installed, placed squarely on a firm base, and tested to its failure point. The compression test shall be measured in psf. Support pier failure will be established when the support bends, cracks, buckles or deflects to an unsafe level as determined by the approved testing agency.

(C) The safe operating load of a support pier is one–third (1/3) the average of the three (3) failure tests.

(2) When piers differ in height or construction, design tests and evaluations must be performed on each type of pier.

(c) Tested load bearing piers, other than concrete block piers, shall be listed and labeled as follows:

(1) Listing of piers shall be conducted by listing agencies approved by the department.

(A) The listing agency shall conduct manufacturer facility audits and prepare finding reports not less than once per year. The audit report will include, at a minimum:

(i) the review of pier construction for compliance with manufactured designs as approved by the testing agency,

(ii) the materials used in its construction including type, size, and weight,

(iii) the manufacturer's quality control program, if applicable, and

(iv) the label application and label control process.

(B) The listing agency shall provide an annual report of its approval and audit findings.

(2) Pier supports shall display a legible permanent label of approval, visible when the pier support is installed. The label shall contain the following information:

(A) Manufacturer's name,

(B) Listing agency name,

(C) Listing number issued by the listing agency,

(D) Testing agency's approved operating load, and

(E) Testing agency's test report number.

(d) Individual load bearing footings may be placed on the surface of the ground, and shall be placed level on cleared, firm, undisturbed soil or compacted fill. Where unusual soil conditions exist, as determined by the enforcement agency, footings shall be designed to compensate for such conditions. The allowable loading on the soil shall not exceed one–thousand (1,000) psf unless data to substantiate the use of higher values is approved by the enforcement agency.

(e) Footings shall be adequate in size to withstand the tributary live and dead loads of the accessory structure and any concentrated loads. The length to width ratio of the footing shall not exceed two and one–half (2 1/2) to one (1).

Individual footings for load bearing supports or devices shall consist of one of the following:

(1) Pressure treated lumber which meets the following requirements:

(A) Not less than two (2) inch nominal thickness with a minimum of twenty–five (25) percent of the individual footings identified by an approved listing agency, as being pressure treated for ground contact.

(B) Knots. Well spaced knots of any quality are permitted in sizes not to exceed the following or equivalent displacement:

Nom. Width	*Any Location*	*Holes (Any Cause)*	
6″	2 3/8″	1 1/2″	
8″	3″	2″	One Hole or
10″	3 3/4″	2 1/2″	Equivalent
12″	4 1/4″	3″	Per Piece
14″	4 5/8″	3 1/2″	

(C) Splits. In no case exceed one–sixth (1/6) the length of the piece.

(D) Honeycomb or Peck. Limited to small spots or streaks of firm honeycomb or peck equivalent in size to holes listed in (B) above.

(2) Precast or poured in place concrete footings not less than three and one–half (3 1/2) inches in thickness. The concrete shall have a minimum twenty–eight (28) day compressive strength of not less than two–thousand–five–hundred (2500) psi.

(3) Other material, approved by the department, providing equivalent load bearing capacity and resistance to decay.

(f) Individual load bearing piers or devices and footings shall be designed and constructed with sufficient rigidity and bearing area to evenly distribute the loads carried over one–third (1/3) the area of the footings as measured from the center of the footing. When two (2) or more two (2) inch nominal wood pads placed side–by–side on the ground are used as a pier footing, a single wood cross pad must be installed on top of the ground contact pads at a ninety (90) degree angle so as to place the directional wood grains opposing to each other. The cross pad must be of a length to cover each ground contact pad and be of two (2) inch nominal thickness. Footings shall be constructed of sufficient rigidity to evenly distribute the loads carried to the ground without bowing or splitting.

(g) When multiple wood footings are stacked, they shall be secured together with corrosion resistant fasteners at all four (4) corners of the pad which will penetrate at least eighty (80) percent of the base pad to prevent shifting.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18865, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2337. Support Inspection.

At the time of inspection, the installation of the accessory structure on its support system shall be complete and the area under the accessory structure shall be accessible for inspection.

(a) Skirting shall not be installed until all underfloor installations have been approved by the enforcement agency.

(b) Masonry walls shall not be installed until all underfloor installations have been approved by the enforcement agency, unless the installation of the masonry wall is required to provide perimeter support to the accessory structure.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18871.3, Health and Safety Code

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2344. Clearances.

(a) A minimum clearance of twelve (12) inches shall be maintained under all horizontal structural members of accessory structures.

(b) The finished floor of a camping cabin shall not exceed eighteen (18) inches in height above the ground.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18865, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2346. Skirting Design and Construction.

(a) Where the space beneath an accessory structure is enclosed, there shall be provided a removable access panel opening a minimum of eighteen (18) inches by twenty–four (24) inches unobstructed by pipes, ducts, or other equipment that may impede access. The access panel shall not be fastened by any means requiring the use of a special tool or device to remove the panel.

(b) Cross ventilation shall be provided by openings having a net area of not less than one and one–half (11/2) square feet for each twenty–five (25) linear feet of the accessory structure and including all enclosed unventilated structures. The openings shall be provided on at least the two (2) opposite sides along the greatest length of the unit and shall be installed as close to all the corners as practicable.

(c) When wood siding or equivalent home siding products are used as underfloor enclosure material, the installation shall comply with the siding manufacturer installation instructions. Where siding manufacturer installation instructions are not available, the installation shall conform to the provisions of the California Building Code. All wood products used in underfloor enclosure construction located closer than six (6) inches to earth shall be treated wood or wood of natural resistance to decay. Where located on concrete slabs placed on earth, wood shall be treated wood or wood of natural resistance to decay.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2352. Electrical Feeder Assembly.

(a) A recreational vehicle or camping cabin shall be connected to the lot service equipment by one of the following means:

(1) A listed power supply cord approved for mobilehome or recreational vehicle use.

(2) A power supply cord bearing the following markings: Type SO, ST, or STO. The cord shall not be spliced.

(b) The male attachment plug shall conform with provisions of Articles 550 or 551 of the California Electrical Code.

(c) The conductors shall be sized for the electrical load shown on the unit's electrical label.

(d) In the absence of an electrical label on the unit or the unit manufacturer's approved installation instructions, the conductors shall be sized in accordance with the calculated load as determined by the provisions of the California Electrical Code, Articles 1, 2, and 3.

(e) Only one (1) power supply connection to a unit shall be permitted.

(f) Power supply cords shall not be buried or encased in concrete.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871 and 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2354. Unit Gas Connector.

(a) Each unit connected to the lot outlet shall be connected by an approved flexible gas connector, listed for its intended use, not more than six (6) feet in length and of adequate size to supply the unit's gas appliance demand, as evidenced by the label on the unit. In the absence of a label, the unit's demand shall be determined by the California Plumbing Code, Chapter 12.

(b) Only one (1) gas supply connection to a unit shall be permitted.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2356. Unit Water Connector.

A unit shall be connected to the lot water service outlet by a flexible connector approved for potable water.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2358. Drain, Unit.

(a) Drain connectors and fittings for recreational vehicles shall be listed and approved for drain and waste.

(b) Recreational vehicles located in a park for more than 3 months, or units with plumbing that are not self–contained, shall be connected to the lot drain inlet by means of a drain connector consisting of approved pipe not less than schedule 40, with listed and approved fittings and connectors, and shall not be less in size than the unit drain outlet. A listed and approved flexible connector shall be provided at the lot drain inlet end of the pipe.

(c) A drain connector shall be gas–tight and no longer than necessary to make the connection between the unit's drain outlet and the drain inlet on the lot.

(d) Vehicles occupying lots without drain inlets shall have the drain outlet of the vehicle capped gas–tight, unless discharged into an approved, closed, vented container.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2360. Air–Conditioning Installation.

If a unit is not pre–wired for air–conditioning equipment, it shall be energized from the lot service, provided the park electrical system has the capacity to supply the additional air–conditioning load and a permit to construct is obtained for the alteration of the lot electrical service.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871, 18873.3 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 8. Permanent Buildings and Commercial Modulars

§ 2382. Application and Scope.

(a) The requirements of this article shall apply to the construction, alteration, repair, use, maintenance, and occupancy of permanent buildings and commercial modulars in parks. The provisions of this article relating to permanent buildings and commercial modulars in parks do not apply to accessory buildings or structures or building components established for use of an occupant of a unit. The department shall administer and enforce all of the provisions of this article relating to permanent buildings and commercial modulars in parks except in a city, county, or city and county, which has assumed responsibility for enforcement of Division 13, Part 2.3 of the Health and Safety Code and this chapter.

(b) Existing construction, connections, and installations of plumbing, electrical, fuel gas, fire protection, within permanent buildings or commercial modulars in parks, made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be substandard.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18865, 18873, 18873.1, 18873.3 and 18873.4, Health and Safety Code.

HISTORY

1. New article 8 (sections 2382–2399) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2388. Construction of Permanent Buildings.

(a) Design and construction requirements for permanent buildings in parks are found in the California Building Code.

(b) The requirements for electrical wiring, fixtures, and equipment installed in permanent buildings in parks are found in the California Electrical Code.

(c) The requirements for fuel gas equipment and installations installed in permanent buildings in parks are found in the California Mechanical Code.

(d) The requirements for plumbing in permanent buildings in parks are found in the California Plumbing Code.

(e) The requirements for fire protection equipment and installations in all permanent buildings are found in the applicable requirements of the California Building Code.

(f) The energy conservation requirements for all permanent buildings which contain conditioned space are found in the energy conservation standards for new non–residential buildings contained in the California Energy Code.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18873, 18873.1, 18873.3, 18873.4 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2399. Commercial Modular Requirements.

(a) The applicant for a permit to install a commercial modular in a park in lieu of a permanent building shall submit a request for an alternate approval to the department in accordance with section 2016. The request for alternate approval shall be accompanied by evidence of compliance with section 2032 of this chapter.

(b) A commercial modular installed in a park shall bear an insignia of approval issued by the department in accordance with Health and Safety Code section 18026.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18865.6 and 18873, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 9. Accessory Buildings and Structures

§ 2422. Application and Scope.

(a) Except as otherwise noted, the requirements of this article shall apply to the construction, use, maintenance, and occupancy of accessory buildings or structures and building components constructed or installed adjacent to units both within and outside of parks.

(b) Accessory buildings or structures, or building components that are constructed and maintained in accordance with those statutes and regulations which were in effect on the date of original construction, are not subject to the requirements of subsequent regulations. An accessory building or structure or building component that is moved to a different location shall be subject to the permit to construct requirements of this chapter. Any alterations or additions must comply with the current provisions of this chapter.

(c) Accessory structures, excluding those not requiring a permit to construct as set forth in section 2018 of this chapter, shall not be attached to, be supported by, or transmit any loads to, a recreational vehicle.

(d) Accessory buildings and structures or building components, installed on a MH–unit lot in a special occupancy park, shall comply with the exiting requirements in section 1429 of chapter 2.

(e) Stairways and ramps required for ingress and egress for camping cabins shall be freestanding and are the only accessory structures permitted on a lot with a camping cabin.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18863.4 and 18871.3, Health and Safety Code.

HISTORY

1. New article 9 (sections 2422–2518) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2424. Regulated Structures.

(a) Accessory buildings or structures or building components which do not comply with this article or are deemed to be unsafe by the enforcement agency shall not be allowed, constructed, or occupied.

(b) A permit shall be obtained from the enforcement agency to construct or install an accessory building or structure as required by Article 1 of this chapter, unless specifically exempted in section 2018 of this chapter.

(c) Cabanas, garages and storage buildings shall not be constructed or installed in special occupancy parks except on lots designated for MH–units as specified in section 2118 of this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18863.4, 18865, 18870 and 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2428. Location.

(a) In parks, accessory buildings or structures, or any part thereof, on a lot shall maintain the following setbacks from lot lines:

(1) When constructed of noncombustible materials:

(A) may be up to the lot line, provided a minimum three (3)–foot clearance is maintained from any other unit, accessory building or structure, or building component on adjacent lots.

(2) When constructed of combustible materials:

(A) a minimum three (3) foot clearance from all lot lines, and

(B) a minimum six (6) foot clearance from any other unit, accessory buildings or structures, or building components on adjacent lots constructed of combustible materials.

(b) Location requirements governing cabanas, private garages, and storage buildings, permitted by section 2118 of this chapter, are found in Article 9 of Chapter 2 of this division.

(c) Stairways with landings not to exceed twelve (12) square feet may be installed to the lot line provided they are located a minimum of three (3) feet from any unit or accessory building or structure including another stairway on an adjacent lot. However, if the stairway is an up–and–over design (steps up the front and down the back) that provides access to the lot beyond the stairway, it does not need to maintain the separation from a unit or accessory building or structure, including another stairway, on an adjacent lot.

(d) Fencing of any material, that meets the requirements of section 2514 of this article, may be installed up to a lot line.

(e) No portion of an accessory building or structure, or building component shall project over or beyond a lot line.

(f) Any permitted accessory building or structure, or building component may be installed up to a lot line bordering a roadway or common area provided there is no combustible building or structure in the common area within six (6) feet and no structure of any kind within three (3) feet of any portion of the accessory building or structure, or building component. The maximum seventy–five percent (75%) lot coverage allowed by section 2110 of this chapter shall be maintained.

(g) Wood awning or carport support posts four (4) inches or greater in nominal thickness may be located up to a lot line provided the remainder of the awning or carport is composed of noncombustible material.

NOTE: Authority cited: Sections 18865, 18865.05 and 18873 Health and Safety Code. Reference: Sections 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

2. Amendment of subsections (b)–(c) and new subsection (g) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).
4. Amendment of subsections (a)(1)(A), (c) and (f) and amendment of NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2429. Required Exits.

(a) An awning enclosure may be constructed or installed to enclose an emergency exit window from a sleeping room within a unit provided the enclosed area adjacent to the emergency exit window has a door not less than twenty–eight (28) inches in width and seventy–four (74) inches in height providing direct access to the outside.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).

§ 2432. Construction.

(a) Construction and installation of accessory buildings or structures or building components shall comply with the structural requirements for permanent buildings, except as otherwise provided by this article. The enforcement agency may require that accessory buildings and structures or building components be designed and constructed to withstand live loads, vertical uplift or horizontal forces from any direction in excess of the minimum loads specified in this chapter, based on local geologic, topographic, or climatic conditions, when approved by the department.

(b) Accessory buildings and structures constructed of aluminum or aluminum alloy shall be designed to conform to the specifications contained in the California Building Code, Chapter 20.

(c) Unless data to substantiate the use of higher values is submitted to the enforcement agency, the allowable loading of accessory buildings and structures or building components on the soil shall not exceed one thousand (1,000) psf vertical soil bearing pressure, one hundred fifty (150) psf of depth lateral soil bearing pressure, and one hundred sixty–seven (167) psf frictional resistance for uncased cast–in place concrete piles.

NOTE: Authority cited: Section 18865, Health as Safety Code. Reference: Sections 18871.3 and 18873, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2433. Roof Live Load.

(a) Except as provided in this article, every cabana installed on or after July 31, 1976, or every accessory building or structure or building component installed on or after June 10, 1979, shall have the capacity to resist the applicable minimum snow load of the region in which it is installed or as is provided by this section.

Table 2433–1
General Roof Live Load Requirements for Accessory Buildings and Structures and Building Components

Region I		*Region II*		*Region III*	
Elevation	*Roof Live Load*	*Elevation*	*Roof Live Load*	*Elevation*	*Roof Live Load*
All		0–3000 ft	20 psf	0–2000 ft	20 psf
Elevations	20 psf	3001–3500 ft	30 psf	2001–3000 ft	30 psf
		3501–5000 ft	60 psf	3001–4000 ft	60 psf
				4001–5000 ft	80 psf

Table 2433–1 shall apply except where either greater or lesser snow loads have been established through survey of the region, and approved by the department.

(1) Region I includes the following counties:

Alameda, Butte, Colusa, Contra Costa, Del Norte, Glenn, Humboldt, Imperial, Kings, Lake, Los Angeles, Marin, Mendocino, Merced, Monterey, Napa, Orange, Sacramento, San Benito, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Ventura, Yolo.

(2) Region II includes the following counties:

Amador, Fresno, Inyo, Kern, Modoc, Riverside, San Bernardino, Siskiyou.

(3) Region III includes the following counties:

Alpine, Calaveras, El Dorado, Lassen, Madera, Mariposa, Mono, Nevada, Placer, Plumas, Shasta, Sierra, Tehama, Trinity, Tulare, Tuolumne, Yuba.

(b) Parks that have received approval for a snow roof load maintenance program prior to July 7, 2004, shall maintain the snow roof load maintenance program, as long as accessory buildings or structures, or building components in the park do not meet the minimum roof loads for the area. Accessory buildings or structures or building components installed after July 7, 2004, must have the capacity to resist the applicable minimum roof live loads of the region in which it is installed, as set forth in table 2433–1.

(c) The park owner or operator shall be responsible for the continued management of an existing snow roof load maintenance program approved for the park.

(d) Roof live load requirements shall not apply to storage cabinets.

(e) Accessory structures may be relocated from one park to another and reinstalled under permit within another park provided the requirements for roof live load in the new park are not greater than the requirements of the park in which the accessory structure was previously installed.

NOTE: Authority cited: Section 18865, Health as Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2434. Calculations and Test Procedures.

(a) The load bearing capacity of elements or assemblies shall be established by calculations in accordance with generally established principles of engineering design. However, when the composition or configuration of elements, assemblies or details of structural members are such that calculations of their safe load–carrying capacity and basic structural integrity cannot be accurately determined in accordance with generally established principles of engineering design, structural properties of such elements or assemblies may be established by the results of tests that are designed and certified by an architect or engineer, with the test results approved by the department.

(b) When any structural design or method of construction is substantiated by calculations and supporting data, the calculations and supporting data shall be approved by an architect or engineer and shall be submitted to the department.

(c) When the design of accessory structures is substantiated by calculations or tests, all structural plans shall be approved by the architect or engineer in charge of the total design.

(d) When any design or method of construction is substantiated by tests, all those tests shall be performed by an approved testing agency acceptable to the department or shall be directed, witnessed, and evaluated by an independent architect or engineer. All test procedures and results shall be reviewed, evaluated, and signed by an architect or engineer. The approved testing agency, architect, or engineer shall submit the evaluation of test results, calculations, and recommendations, to the department. The department may require that a representative of the department witness the test.

NOTE: Authority cited: Section 18865, Health as Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2436. Electrical Installations.

(a) Electrical equipment and installations within an accessory building or structure or building component and the circuit supplying power shall

be installed by a permanent wiring method and shall comply with the requirements for electrical installations of this chapter.

(b) Flexible cord shall not be used to supply an accessory building or structure or building component, or as a substitute for the fixed wiring of an accessory building or structure or building component.

(c) Unless otherwise specified by this article, electrical service provided to an accessory building or structure or building component shall be supplied from the lot service equipment, provided:

(1) a permit is obtained to alter the lot electrical service by installing a separate overcurrent protective device rated not more than the total calculated electrical load, and

(2) the lot service equipment is capable of supplying the additional load, and

(3) the overcurrent protective device and its installation complies with the California Electrical Code.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18873.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2438. Mechanical Installations.

Fuel gas piping, heating, ventilating, related equipment, and fireplaces shall not be constructed or installed in, or in conjunction with, an accessory building or structure.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3, 18873.1 and 18873.4, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2440. Plumbing.

(a) The requirements for plumbing systems and equipment installed in accessory structures are found in the California Plumbing Code, except as otherwise specified in this article.

(b) An accessory structure directly connected to the water distribution system of a park shall be connected with piping and fittings listed and approved for that purpose. Flexible hose shall not be used as a substitute for water piping or connections.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3, 18871.4 and 18873.1, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2442. Foam Building System Flammability Standards.

The requirements of section 24 of this Title shall apply to the use of any foam plastic or foam plastic building system used in the construction of accessory buildings or structures.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2443. Private Garages, Cabanas, and Storage Buildings.

(a) Garages, cabanas and storage buildings shall be located only on lots designated for manufactured homes or mobilehomes in accordance with section 2118.

(b) When permitted, garages, cabanas and storage buildings shall comply with the requirements contained in chapter 2 of this Division.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2444. Cabanas.

(a) Cabanas shall be located only on lots designated for manufactured homes or mobilehomes in accordance with section 2118.

(b) When permitted, cabana construction and installation shall comply with the requirements contained in chapter 2 of this Division.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2466. Awning — Permitted.

An awning may be erected, constructed, or maintained only as an accessory structure to a recreational vehicle located on the same lot.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2468. Awning — Design and Construction.

(a) An awning and its structural parts, except cloth, canvas, or similar flexible materials, shall be designed, constructed, and erected to adequately support all dead loads plus a minimum vertical live load of ten (10) psf except that snow loads shall be used where snow loads exceed this minimum. Requirements for the design of awnings necessary to resist minimum horizontal wind pressure are contained in the California Building Code Appendix Chapter 31.

(b) Awnings shall be completely freestanding and shall not transmit any loads to a recreational vehicle. Exception: portable awnings constructed of cloth, canvas, or other flexible material may be attached to the unit.

(c) Flashing or sealing materials may be used to provide a weather seal between a freestanding awning and a unit. No separation is required between a freestanding awning and an attached awning located on the same lot.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2470. Awning — Dimensions.

(a) A freestanding awning is not limited as to width or length, except that the total occupied area of a lot, including all accessory building or structures, shall not exceed seventy–five (75) percent of the lot area in accordance with section 2110 of this chapter.

(b) The minimum clear height of any awning shall not be less than seventy–four (74) inches.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2472. Awning — Foundations.

Concrete slabs may be considered to have an allowable load bearing capacity of three–hundred–fifty (350) pounds per column. The enforcement agency may accept a loading not to exceed five–hundred (500) pounds per column, provided the slab is not less than three and one–half (3 1/2) inches thick and in good condition. The weight of individual poured concrete footings shall be one and one–half (11/2) times the calculated uplift force. The weight of concrete shall be assumed to be not more than one–hundred–forty–five (145) pounds per cubic foot.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2474. Awning — Enclosures.

(a) Awning enclosures shall be used only for recreational or outdoor living purposes and shall not be used as carports or storage rooms nor shall they be constructed or converted for use as a habitable room or a cabana.

(b) Combustible material used for awning enclosures shall not be installed within three (3) feet of the lot line pursuant to section 2428 of this chapter.

(c) Awnings may be enclosed or partially enclosed as follows:

(1) With insect screening or removable flexible plastic material. Awning drop or side curtains shall not be permanently fastened at the sides or bottom. (A permit to construct is not required.)

(2) With rigid, readily removable transparent, or translucent materials.

(3) Awnings may be partially enclosed with solid, opaque panels, provided the panels do not exceed fifty (50) percent of the total wall area.

(4) When an awning is completely enclosed with rigid material, fifty (50) percent of the total wall area shall be translucent or transparent material, of which twenty–five (25) percent of the total wall area shall be able to be opened for ventilation. Exiting requirements shall meet the requirements for a cabana.

(d) Where an awning is erected or constructed immediately adjacent to or over a permanently constructed retaining wall of fire resistant material, there shall be not less than eighteen (18) inches clear ventilating opening between the underside of the awning roof and the top of the wall extending the full length of the awning.

(e) An awning shall not be enclosed unless the enclosure is designed and constructed as a freestanding structure or unless the awning is designed and constructed to withstand the additional forces imposed by the enclosure.

(f) The requirements for awning enclosures are contained in the California Building Code, Appendix Chapter 31.

(g) Heating or cooking appliances or facilities shall not be installed or used within an awning enclosure.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2478. Carport — Permitted.

(a) A carport may be constructed or maintained on a lot only as an accessory structure to a unit located on the same lot.

(b) A freestanding carport, or a common freestanding carport for the use of the occupants of adjacent lots, may be erected on a lot line, provided that such a carport is constructed of material which does not support combustion, and provided that there is a minimum of three (3) feet clearance from any unit or any other structure on the adjacent lots. Such freestanding carports may be connected to a unit or other accessory building or structure by an open covered walkway not exceeding six (6) feet in width.

(c) A carport shall be designed and constructed in accordance with the structural requirements for awnings as specified in section 2468.

(d) A carport shall conform to the dimensions specified in section 2470 for awnings.

(e) At least two (2) sides or one (1) side and one (1) end of a carport shall be maintained at least fifty (50) percent open and unobstructed at all times.

(1) A carport which is partially enclosed shall be designed and constructed to withstand the additional lateral forces imposed by such an enclosure as required for awning enclosures.

(2) Where a carport is constructed immediately adjacent to or over a permanently constructed retaining wall of fire resistant material, there shall not be less than eighteen (18) inches clear ventilating opening between the underside of the carport roof and the top of the wall extending the full length of the carport.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2486. Ramada — Permitted.

(a) A ramada may be erected, constructed, or maintained on a lot only as an accessory to a unit located or intended to be located on the same lot.

(b) A ramada shall be designed and constructed as a freestanding, self–supporting structure meeting the structural requirements for cabanas as specified in section 1446.

(c) A ramada shall not be enclosed or partially enclosed on any side or end.

(d) A ramada or any portion thereof shall have a clearance of not less than eighteen (18) inches in a vertical direction above any plumbing vent extending through the roof of a unit and not less than six (6) inches in a horizontal direction from each side of a unit.

(e) A minimum of two (2) ventilating openings shall be installed at the highest point in the ramada roof to eliminate the buildup of products from vents or ducts. Vent openings shall be located near the ends of the ramada for cross–ventilation and shall have a minimum cross–sectional area of twenty–eight (28) square inches. Chimneys or vents of fuel burning appliances shall extend through the ramada roof surface and shall terminate in an approved roof jack and cap installed in accordance with the appliance listing and the manufacturer's installation instructions.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2496. Exterior Doorways.

(a) Exterior doorways of accessory buildings or structures shall be provided with a porch, ramp, landing, and/or stairway conforming to the provisions of this Article.

(b) The requirements for ramps, landings, porches, and/or stairways are contained in the California Building Code, Chapter 10, except as otherwise provided in this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2498. Landing, Porch, and Stairway — Design and Construction.

(a) Requirements for the design and construction of all structural elements of porches and stairways and railings are contained in the California Building Code, except as otherwise provided by this article. Live loads applicable to porch floors and stairways shall be not less than forty (40) psf. Porches shall be designed and constructed as completely freestanding, self–supporting structures. Except as otherwise provided in this article, stairways and ramps shall be a minimum of thirty–six (36) inches in width.

(b) Where a door of the unit swings outward onto a landing or porch:

(1) The floor of the exterior landing or porch shall be not more than one (1) inch lower than the bottom of the door; and

(2) The width and depth of the exterior landing or porch serving stairs perpendicular to any outswinging door opening shall comply with subsection (a) of this section and shall not be less than the full width of the door when open at least ninety (90) degrees. Guard rails shall permit the door to open at least ninety (90) degrees.

(c) Where the unit door swings inward or is a sliding door, the landing, porch, or top step of the stairway may not be more than seven and one–half (71/2) inches below the door. The width of the landing, porch, or top step of the stairway shall comply both with subsection (a) of this section and not be less than the width of the door opening. A landing or porch is not required when the stairway has a straight run up to the door opening.

(d) The stairway may be capable of being relocated and need not be secured to the lot.

NOTE: Authority cited: Sections 18865, 18865.05 and 18873, Health and Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of subsection (d) and repealer of subsection (e) filed 7–22–2005; operative 7–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
3. Editorial correction of HISTORY 2 (Register 2005, No. 33).
4. Amendment of subsections (a), (b)(2) and (c) and amendment of NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2500. Porch and Stairway — Foundation.

(a) Porches may be supported on piers in lieu of continuous footings. Individual piers shall be designed and constructed to evenly distribute the loads carried to the footings.

(b) Support footings shall comply with the requirements of either section 2334 of this chapter or the California Building Code.

NOTE: Authority cited: Section 18865, Health as Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2502. Porch — Guardrails.

Guardrails shall be provided around the perimeter of porches and decks which are thirty (30) inches or more above grade. The requirements for porches and guardrails are contained in the California Building Code, except as otherwise provided in this chapter.

NOTE: Authority cited: Section 18865, Health as Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2504. Stairway — Handrails.

(a) Every stairway with four (4) or more risers, or stairways exceeding thirty (30) inches, shall be equipped with handrails and intermediate rails for the entire length of the handrail.

(b) Handrails with a circular cross–section shall have an outside diameter of at least one and one–quarter (1.25) inches and not greater than two (2) inches or shall provide equivalent grasping ability. If the handrail is not circular, it shall have a perimeter dimension of at least four (4) inches and not greater than six and one–quarter (6.25) inches with a maximum vertical cross–section dimension of two and one–quarter (2.25) inches. Edges shall have a minimum radius of one–hundredth (0.01) inch.

(c) The requirements for stairways and handrails are contained in the California Building Code, except as otherwise provided in this chapter.

NOTE: Authority cited: Sections 18865, 18865.05, 18871.3 and 18873, Health and Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of section and NOTE filed 12–26–2006; operative 1–2–2007 pursuant to Government Code section 11343.4 (Register 2006, No. 52).

§ 2506. Ramps and Handrails.

When a ramp and handrail are to be constructed in place of a stairway, the requirements for the design and construction of the ramp and handrail are contained in the California Building Code.

NOTE: Authority cited: Section 18865, Health as Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2510. *Storage Cabinets* — Location.

(a) A storage cabinet may be located immediately adjacent to a unit on the same lot, provided all of the following conditions are met:

(1) The required exits and openings for light and ventilation of the unit, cabana, or building component are not obstructed; and

(2) The location does not prevent service or inspection of the unit's or lot's equipment or utility connections; and

(3) The separation requirements from structures on adjacent lots, contained in section 2428 of this chapter, are maintained.

(b) A storage cabinet shall not be used as a habitable structure, or any part of a habitable structure.

(c) A storage cabinet shall not exceed ten (10) feet in height.

(d) The total, combined floor area of all storage cabinets on a lot shall not exceed one–hundred–twenty (120) square feet.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2514. Fence or Windbreak — Height.

(a) A fence located on a lot shall not exceed six (6) feet in height.

(b) A fence exceeding forty–two (42) inches in height, parallel to a unit or habitable accessory building or structure or building component, shall not be located closer than three (3) feet to that unit, habitable accessory building, or structure or building component.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Section 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2518. Standard Plan Approval.

(a) A standard plan approval may be obtained from the department for a plan for accessory buildings or structures. Department–approved plans shall be accepted by the enforcement agency as approved for the purpose of obtaining a construction permit when the design loads are consistent with the requirements for the locality and the provisions of this chapter.

(b) Requirements regarding the procedure to obtain a standard plan approval are contained in section 2020.9 of this chapter.

(c) Plan check fees shall not be required for accessory buildings or structures for which a standard plan approval has been obtained from the department.

NOTE: Authority cited: Section 18865, Health as Safety Code. Reference: Sections 18870.2 and 18871.3, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 10. Violations, Complaints, Abatement, and Hearings

§ 2600. Application and Scope.

(a) The substandard conditions and abatement requirements contained in this article shall apply to parks, permanent buildings or structures in parks, units, accessory buildings or structures, and building components wherever they are located within parks in all parts of the state.

(b) Existing construction, connections, and installations made before the effective date of the requirements of this chapter may continue in use so long as they were in compliance with requirements in effect at the date of their installation and are not found to be unsafe or substandard.

NOTE: Authority cited: Sections 18865 and 18872, Health and Safety Code. Reference: Sections 18865, 18866.3, 18866.5 and 18872, Health and Safety Code.

HISTORY

1. New article 10 (sections 2600–2619) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of article 10 heading filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 2605. Substandard Permanent Buildings.

Any permanent building, structure, or portion thereof, or the premises on which it is located, shall be deemed substandard and a nuisance when any of the following conditions exist that endanger the life, limb, health, property, safety, or welfare of the occupants or the public.

(a) Health hazards or inadequate sanitation which include, but are not limited to, the following:

(1) Where required, the lack of, inoperable, or defective water closet, lavatory, bathtub or shower.

(2) Where required, the lack of, inoperable, or defective kitchen sink.

(3) Lack of or inadequate hot and cold running water to plumbing fixtures.

(4) Dampness of habitable rooms.

(5) Infestation of insects, vermin or rodents.

(6) General dilapidation or improper maintenance.

(7) Lack of or defective connection of plumbing fixtures to a sewage disposal system.

(8) Lack of adequate garbage and rubbish storage and removal facilities.

(b) Structural hazards, which include, but are not limited to, the following:

(1) Deteriorated or inadequate foundations.

(2) Defective or deteriorated flooring or floor supports.

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety.

(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle, due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(10) Lack of minimum amounts of required natural light and ventilation.

(c) A Nuisance as defined in subsection 2002.

(d) Electrical hazards which include, but are not limited to, the following:

(1) All electrical equipment or installations that either did not conform with all applicable laws and regulations in effect at the time of its installation, or has not been maintained in good and safe condition, or is not being used in a safe manner.

(2) Lack of, inoperable or defective required electrical lighting.

(e) Plumbing which did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good or safe condition, or has cross–connections and siphonage between fixtures.

(f) Mechanical equipment, including heating equipment and its vents, which did not conform with all applicable laws and regulations in effect at the time of its installation or which has not been maintained in good and safe condition, or is not being used in a safe manner.

(1) Inoperable or defective heating facilities.

(2) Inoperable or defective ventilating equipment.

(g) Faulty weather protection, which includes, but is not limited to, the following:

(1) Deteriorated roofs.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any building, structure, or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) Materials or construction not allowed or approved by this chapter or which have not been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, rubbish, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) All buildings or portions thereof not provided with adequate exit facilities as required by this chapter, except those buildings or portions thereof whose exit facilities conformed with all applicable laws and regulations at the time of their construction.

(*l*) All buildings, structures, or portions thereof which are not provided with the fire–resistive construction or fire–extinguishing systems or equipment required by this chapter, except those buildings, structures, or portions thereof which conformed with all applicable laws and regulations at the time of their construction.

(m) All buildings, structures, or portions thereof occupied for living sleeping, cooking, or dining purposes which are not designed or intended to be used for those occupancies.

(n) Room and space dimensions less than required by this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18863.4, 18866.3, 18866.5, 18873, 18873.1, 18873.2, 18873.3, 18873.4 and 18873.5, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2606. Substandard Manufactured Home or Mobilehome.

The provisions contained in section 1606, of chapter 2 of this division, are applicable to substandard manufactured homes and mobilehomes.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18871, 18871.10 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2607. Substandard Recreational Vehicle.

Any recreational vehicle shall be deemed substandard and a nuisance when any of the following conditions exist that endanger the life, limb, health, property, safety, or welfare of the occupants or the public.

(a) Health hazards or inadequate sanitation which include, but are not limited to, the following:

(1) Lack of adequate or defective ventilation.

(2) Dampness of habitable rooms.

(3) Infestation of insects, vermin or rodents.

(4) General dilapidation or improper maintenance.

(b) Structural hazards shall include, but are not limited to, the following:

(1) Defective or deteriorated flooring or floor supports.

(2) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(3) Members of ceiling, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(c) Nuisance as defined in section 2002.

(d) Electrical hazards which shall include, but are not limited to, the following:

(1) All electrical equipment and installations that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good and safe condition, or is not being used in a safe manner.

(2) Electrical conductors which are not protected by overcurrent protective devices designed to open the circuit when the current exceeds the ampacity of the conductor.

(3) Electrical conductors which do not have ampacity at least equal to the rating of outlet devices or equipment supplied.

(4) Electrical conductors which are not protected from physical damage.

(5) Metallic boxes, fittings, or equipment in an electrical wiring system which are not grounded to prevent shock.

(e) Plumbing hazards which include, but are not limited to, the following:

(1) Plumbing which did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good or safe condition, or has cross–connections and/or siphonage between fixtures.

(2) Lack of effective traps providing a water seal for each plumbing fixture.

(3) Lack of effective venting of plumbing drain piping.

(4) Broken, unsanitary or leaking plumbing, pipe or fixtures.

(5) Any fixture, fitting, device or connection installed in such a manner as to permit contamination of the potable water supply.

(f) Hazardous mechanical equipment which includes, but is not limited to, the following:

(1) Mechanical equipment, including all heating equipment and its vent, that did not conform with all applicable laws and regulations in effect at the time of its installation, or which has not been maintained in good and safe condition, or is not being used in a safe manner.

(2) Unvented fuel burning heating appliances.

(3) Heating or fuel burning equipment, including its vent, without adequate clearance from combustible material.

(4) Unsupported, loose, or leaking fuel supply piping.

(g) Faulty weather protection, which includes, but is not limited to deteriorated or ineffective waterproofing of exterior walls, roof, or floors, including broken windows or doors.

(h) Any recreational vehicle or portion thereof, device, apparatus, equipment, or combustible material which is in such a condition as to cause a fire or explosion.

(i) Materials or construction not allowed or approved by this chapter or those that have not been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, rubbish, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) All recreational vehicles or portions thereof not provided with adequate exit facilities which conformed to all applicable laws, regulations and standards in effect at the time of their construction, or those facilities that have not been adequately maintained.

(*l*) Any other components of recreational vehicles or portions thereof that did not conform with all applicable laws, regulations and standards in effect at the time of their construction, or those components that have not been adequately maintained.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18866.3, 18866.5, 18871, 18871.10 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2608. Substandard Accessory Buildings and Structures and Building Components.

Any accessory structure or building, or building component or portion thereof, or the premises on which the same is located, shall be deemed substandard and a nuisance when any of the following conditions exist that endanger the life, limb, health, property, safety, or welfare of the occupants or the public.

(a) Health hazards or inadequate sanitation which include, but are not limited to, the following:

(1) When installed, inoperable or defective water closet, lavatory, bathtub or shower.

(2) When installed, inoperable or defective kitchen sink.

(3) When installed, inadequate hot and cold running water to plumbing fixtures.

(4) Dampness of habitable rooms.

(5) Infestation of insects, vermin or rodents.

(6) General dilapidation or improper maintenance.

(7) When installed, defective connection of plumbing fixtures to a sewage disposal system.

(b) Structural hazards, which include, but are not limited to, the following:

(1) Deteriorated or inadequate foundations or stabilizing devices.

(2) Defective or deteriorated flooring or floor supports.

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety.

(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle, due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(10) Lack of, inoperable, or defective required ventilating equipment.

(11) Lack of minimum amounts of required natural light and ventilation.

(c) Nuisance as defined in section 2002.

(d) Electrical hazards include, but are not limited to, the following:

(1) All electrical wiring that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good and safe condition, or is not being used in a safe manner.

(2) Lack of, inoperable, or defective required electrical lighting.

(e) Plumbing that did not conform with all applicable laws and regulations in effect at the time of its installation, has not been maintained in good or safe condition, or has cross–connections and siphonage between fixtures.

(f) Mechanical equipment, including heating equipment and its vents, that did not conform with all applicable laws and regulations in effect at the time of its installation, which has not been maintained in good and safe condition, or is not being used in a safe manner.

(1) Inoperable or defective heating facilities.

(g) Faulty weather protection includes, but is not limited to, the following:

(1) Deteriorated roofs.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any accessory structure or building or building component or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) Materials or construction not allowed or approved by this chapter or which have not been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, rubbish, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health or safety hazards.

(k) All accessory building or structures or building components or portions thereof not provided with adequate exit facilities as required by this chapter except those buildings or portions thereof whose exit facilities

conformed with all applicable laws and regulations in effect at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(*l*) All buildings, structures, or portions thereof which are not provided with the fire–resistive construction or fire–extinguishing systems or equipment required by this chapter, except those buildings, structures, or portions thereof which conformed with all applicable laws at the time of their construction and whose fire–resistive integrity and fire–extinguishing system or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(m) All accessory buildings or structures or building components or portions thereof occupied for living, sleeping, cooking, or dining purposes which were not designed or intended to be used for such occupancies.

(n) Room and space dimensions less than required by this chapter.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18866.3, 18866.5, 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2609. Substandard Camping Cabins.

Any camping cabin shall be deemed substandard and a nuisance when any of the following conditions exist that endanger the life, limb, health, property, safety, or welfare of the occupants or the public.

(a) Lack of an operational smoke detector.

(b) Dampness of habitable rooms.

(c) Infestation of insects, vermin or rodents.

(d) General dilapidation or improper maintenance.

(e) Structural hazards which include, but are not limited to, the following:

(1) Defective or deteriorated flooring or floor supports.

(2) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(3) Members of ceiling, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(4) Lack of adequate or defective ventilation.

(f) Nuisance as defined in section 2002.

(g) Electrical hazards which include, but are not limited to, the following:

(1) All electrical equipment and installations except that which conformed with all applicable laws and regulations in effect at the time of initial installation and which has been maintained in good condition.

(2) Electrical conductors that are not protected by overcurrent protective devices.

(3) Electrical conductors that are not protected from physical damage.

(4) Ungrounded metallic boxes, fittings, or equipment.

(5) When provided, inoperable or defective electrical lighting.

(h) Any plumbing installed in a camping cabin.

(i) Any mechanical equipment, excluding electric heating.

(j) Faulty weather protection which includes, but is not limited to deteriorated or ineffective waterproofing of exterior walls, roof, or floors, including broken windows or doors.

(k) Any camping cabin, or portion thereof, device, apparatus, equipment, or combustible material which is in such a condition as to cause a fire.

(*l*) All materials or construction except those which are specifically allowed or approved by this chapter or applicable provisions of law which have not been adequately maintained in good and safe condition.

(m) Those premises on which an accumulation of weeds, vegetation, rubbish, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(n) All camping cabins or portions thereof not provided with adequate exit facilities.

(o) Improper or deteriorating support system.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18866.3, 18866.5, 18871.3 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2610. Abatement.

(a) The registered owner of a unit, or the owner of a camping cabin, accessory building or structure, or building component, that is constructed, altered, converted, used, or maintained in a manner that constitutes a violation is required to abate the violation.

(b)The legal owner of the property, or park owner or operator for properties or permanent buildings under their ownership or control, that is constructed, altered, converted, used, or maintained in a manner that constitutes a violation, is required to abate the violation.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18866.3, 18866.5, 18867, 18871, 18871.3, 18871.10 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2611. Notice of Violation, Complaints, and Orders to Correct.

(a)(1) Whenever the enforcement agency finds a condition that constitutes a violation of this chapter, the Health and Safety Code, or any other applicable provision of law, the enforcement agency shall provide a written notice to the person or entity responsible for correction of the violation.

(2) The written notice shall state the conditions which constitute the violation including a reference to the law or regulation being violated, and shall order its abatement or correction within five (5) days after the date of notice or a longer period of time as allowed by the enforcement agency.

(3) If a unit is in such condition that identification numbers are not available to determine ownership, the notice shall be given to the owner of the real property, or if located in a park, the owner or operator of the park.

(4) Whenever the enforcement agency determines a unit, habitable accessory building or structure, or permanent building constitutes an imminent hazard representing an immediate risk to the life, health, or the safety of an occupant, the enforcement agency shall post a notice on the structure, declaring it uninhabitable. The unit, habitable accessory building or structure, or permanent building shall not be occupied until deemed safe by the enforcement agency. At the time of the posting, the enforcement agency shall issue a notice as described in this section. A copy of the notice shall be issued to the occupant of the unit, accessory building or structure, or permanent building, if different from the registered owner.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18866.3, 18866.5, 18871.10 and 18872, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
2. Amendment of section heading and subsection (a)(2) filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 2612. Final Notice Requirements.

(a) If the initial notice from the enforcement agency has not been complied with on or before the date specified in the notice, the enforcement agency may institute proceedings against the cited person or entity.

(1) The enforcement agency shall issue to the cited person, the last registered owner of a cited unit, and the park owner or operator, or the legal owner of the property where the cited unit, structure, or property is located, a final notice to abate that shall contain at least the following:

(A) the date the notice is prepared;

(B) the name or names of the responsible person or entity;

(C) a list of uncorrected violation(s) cited;

(D) final compliance date;

(E) right to request an informal conference pursuant to section 2752 of this chapter;

(F) right to request a hearing pursuant to section 2613 of this chapter

(G) a statement that any willful violation is a misdemeanor under section 18874 of the Health and Safety Code.

(2) The final notice shall be mailed, by registered or certified mail, return receipt requested, to the cited person, to the legal owner of the property as shown on the last equalized assessment roll and to the last known address of the last registered or legal owner of record of the cited unit, unless the unit is in such condition that identification numbers are not available to determine ownership. The final notice may also be served by personal service at the discretion of the enforcement agency.

(3) The officer or employee of the enforcement agency upon giving this final notice shall file an affidavit certifying to the time and the manner in which that notice was given. He or she shall also file with the affidavit, any receipt card which may have been returned to him or her in acknowledgment of the receipt of that notice by registered or certified mail.

NOTE: Authority cited: Sections 18865 and 18871.10, Health and Safety Code. Reference: Sections 18866.3, 18866.5, 18871.3 and 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2613. Request for Hearing, Notice of Time and Place for Hearing.

(a) Upon request for a hearing, the cited person or entity receiving a final notice of intention to abate a violation shall be granted a hearing on the matter before an authorized representative of the enforcement agency, or official authorized to conduct the hearing if:

(1) the request, pursuant to this article, is made to the enforcement agency within ten (10) days after personal service or acknowledgment of receipt by mail of the final notice to abate.

(b) Upon receipt of a request for hearing from the cited person or entity, the enforcement agency shall, within sixty (60) days of receipt, hold the hearing. The enforcement agency shall provide the time and place of the hearing in a written notice to the petitioner within twenty (20) days of receipt of the request. Receipt of the request for hearing from the cited person or entity, shall postpone any judicial or administrative action by the enforcement agency until after the hearing.

(c) All procedures governing hearings related to maintenance violations are contained in article 11, commencing with section 2750.

(d) In the event that a cited violation constitutes an imminent hazard representing an immediate risk to life, health and safety of persons or property which requires immediate correction, a hearing shall not be permitted and a request for a hearing shall not extend the time for the correction of the violation.

(e) If the request for hearing is not received within ten (10) days from the date of personal service or acknowledgment of receipt by mail of the notice, the enforcement agency shall have the discretion to continue abatement proceedings.

NOTE: Authority cited: Sections 18865 and 18871.10, Health and Safety Code. Reference: Section 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2615. Hearing.

(a) At the time and place of the hearing, the hearing officer shall hear the testimony of and accept evidence from the legal owner of the property, or park owner or operator; the cited person; or their respective representative; and any other person with information or testimony relevant to the final notice to abate. The testimony shall be limited to the condition of the cited unit, structure, or property. Prior to the hearing, the enforcement agency shall provide all evidence supporting the abatement action to the hearing officer.

(b) If the petitioner does not appear at the hearing, the enforcement agency shall have the authority to proceed immediately with abatement procedures.

(c) Within ten (10) days after conclusion of that hearing, the hearing officer shall render a written decision in the matter which sustains, modifies, or overrules the final notice to abate and shall be reported to all parties to the hearing. If the decision sustains or modifies the final notice to abate, the hearing officer may establish new dates and schedules for compliance.

(d) At the discretion of the hearing officer, the enforcement agency shall post a copy of the written decision in a conspicuous place on the property or unit.

NOTE: Authority cited: Sections 18865 and 18871.10, Health and Safety Code. Reference: Section 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2616. Time to Bring Action.

Any cited person, owner, or other interested person having any objections, or feeling aggrieved at any proceedings taken by the hearing officer conducting the hearing, or the enforcement agency in ordering abatement of any violation, shall bring an action in any court of competent jurisdiction within thirty (30) days after receipt of the decision.

NOTE: Authority cited: Sections 18865 and 18871.10, Health and Safety Code. Reference: Section 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2617. Consequences of Failure to Abate.

(a) It is unlawful for the person ordered to abate a violation to fail or refuse to remove and abate that violation within the time period allowed in the order after the date of posting of an order on the cited unit, structure, or property or receipt of an order. After the expiration of the time period allowed for an order related to a violation, the enforcement agency has the authority to initiate any appropriate action or proceeding to abate the violation, including but not limited to seeking a court order for abatement by a receiver or other person.

(b) If, after the reinspections of an order to correct a violation, the enforcement agency determines that the cited person has made reasonable progress to abate the violation, or that circumstances beyond the control of the cited person have interfered with compliance or slowed compliance, the enforcement agency, in its sole discretion, may extend the period for compliance.

(c) Notwithstanding the provisions of subdivision (a), if a violation poses an imminent hazard representing an immediate risk to life, health, and safety and requires immediate correction, the enforcement agency has the authority to initiate any appropriate action or proceeding to abate a violation if abatement is not complete within the time period allowed by the notice of violation and order.

NOTE: Authority cited: Sections 18865 and 18871.10, Health and Safety Code. Reference: Sections 18866.9, 18869 and 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2618. Responsibility for Costs.

(a) The registered owner of the unit, or any other cited person or entity that fails to correct a violation within the time allotted in the original correction order, or any extension thereto, shall be held responsible for the costs of abatement of the violation. Costs of abatement, for purposes of this section, may include the enforcement agency's investigative and case preparation costs, court costs and attorney fees, the cost associated with any physical actions taken to abate the violation, and any technical service or other fees due to the enforcement agency related to the abatement activity.

(b) If the unit, is in such condition that identification numbers are not available to determine ownership, or the enforcement agency is unable

to locate the owner after making a reasonable effort to do so, the owner of the property on which the unit, is located shall be liable for such costs.

NOTE: Authority cited: Sections 18865 and 18871.10, Health and Safety Code. Reference: Sections 18866.3, 18866.4, 18866.5, 18869 and 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2619. Removal.

(a) A unit, permanent building, accessory building or structure or building component which has been ordered to be removed due to the existence of violations or a nuisance shall be removed in a manner consistent with law.

(b) A copy of the order to remove a unit accompanied by the titles, registration cards, license plates or decals, and the insignias or federal labels, if available, shall be forwarded to the department. The Department of Motor Vehicles shall be sent the order to remove a recreational vehicle with all indicia noted above. The enforcement agency shall send the required information and indicia within five (5) days after removal of a unit.

NOTE: Authority cited: Sections 18865 and 18871.10, Health and Safety Code. Reference: Sections 18866.3, 18866.5, 18869 and 18871.10, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

Article 11. Informal Conferences and Formal Appeals

§ 2750. Application and Scope.

(a) The provisions of this article apply to the informal and formal procedures available to a cited person, as defined by section 2002 of this chapter, who has received a notice of a violation issued by the enforcement agency pursuant to section 18867 of the Health and Safety Code.

(b) None of the procedures for an informal or formal appeal process extend the time allowed for the correction of violations noted in the original notice of violation or noted in subsequent notices of violation issued to the same person or about the same situation unless:

(1) an extension of time allowed for the correction of violations is contained in the written determination provided by the enforcement agency pursuant to subsection 2754(b), or

(2) an extension of the time allowed for the correction of violations is contained in the final, formal decision issued by an enforcement agency pursuant to subsection 2756(f).

NOTE: Authority cited: Sections 18865 and 18868, Health and Safety Code. Reference: Sections 18866.5, 18867 and 18868, Health and Safety Code.

HISTORY

1. New article 11 (sections 2750–2758) and section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2752. Request for Informal Conference.

(a) The following optional, informal conference process shall be available to a person who is required to respond to a notice of violation issued pursuant to section 18867 of the Health and Safety Code, and shall be initiated solely at the discretion of the person addressed in the notice of violation.

(b) The use of the informal conference process shall be limited to the dispute of one or more of the following issues contained in a notice of violation:

(1) The existence of one or more alleged violations,

(2) The alleged failure to correct the violations in the required time frame, and

(3) The reasonableness of the time frame within which the violations shall be corrected.

(c) If a person is in receipt of a notice of violation and chooses to request an informal conference with a representative of the enforcement agency,

(1) the person shall make a written request to the enforcement agency for an informal conference, and

(2) the person shall ensure that the enforcement agency receives the written request within ten (10) working days of the notice of violation.

(d) The written request for an informal conference shall provide the following information:

(1) The name, address, and telephone number of the person requesting the informal conference, and

(2) A brief description of the issues disputed.

(e) Within three (3) working days of the receipt of a written request for an informal conference, the enforcement agency shall contact the person who submitted the request and shall schedule an informal conference for the earliest possible, mutually convenient time and place. The informal conference shall occur during the normal working hours and shall be held no later than fifteen (15) working days after the enforcement agency's receipt of the written request. "Normal working hours" are from 8:00 a.m. to 5:00 p.m. on Monday through Friday, excluding holidays.

(f) The enforcement agency shall deny a request for an informal conference only if one (1) or more of the following conditions apply:

(1) The issues identified for dispute in the written request do not include at least one (1) of the issues specified in subsection (b), or

(2) The person requesting the informal conference is not available to meet with the representative of the enforcement agency within the fifteen (15) day time period and the enforcement agency determines that good cause does not exist to postpone the informal conference.

NOTE: Authority cited: Sections 18865 and 18868, Health and Safety Code. Reference: Sections 18867 and 18868, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2754. Informal Conference.

(a) An informal conference related to a violation shall occur at the time and place scheduled and shall provide the person requesting the conference with the opportunity to explain to the representative of the enforcement agency each issue disputed and the facts and circumstances of each dispute.

(b) Within five (5) working days of the completion of the informal conference, the enforcement agency shall provide a written notification of its determination to the person who requested the conference.

(c) The written determination shall sustain, overrule, or modify the original notice of violation that contained each issue disputed at the informal conference. Modification may include:

(1) changes to the original violation cited,

(2) where necessary to provide a reasonable time for compliance, an extension of the time within which the modified required corrective action shall be completed. The extension of time shall not exceed thirty (30) calendar days, or such longer period of time allowed by the enforcement agency, from the date of the enforcement agency's written determination or greater period of time as determined by the enforcement agency.

(d) The written request for an informal conference shall be considered withdrawn if the person who submitted the request:

(1) does not appear at the mutually–agreed upon time and place scheduled for the informal conference, and

(2) does not notify the enforcement agency, within five (5) calendar days prior to the date on which the informal conference was scheduled, with written confirmation of the good–cause reason for not appearing at the informal conference.

(e) If the enforcement agency determines that good cause exists for a postponement, the enforcement agency shall postpone an informal conference for a period of time not to exceed fifteen (15) working days and shall notify the person in writing of the time and date of the postponed conference. Otherwise, the agency shall confirm the automatic with-

drawal and, if applicable, the denial of the request due to a lack of a good–cause reason, as determined by the enforcement agency.

NOTE: Authority cited: Sections 18865 and 18868, Health and Safety Code. Reference: Sections 18867 and 18868, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2756. Request for Appeal of Decision Rendered in Informal Conference.

(a) Any park owner or operator, or any registered owner of a unit, who has received notice of violation issued pursuant to section 18867 of the Health and Safety Code, has the right to petition for a formal hearing with the person in charge of the enforcement agency or that person's designee.

(b) The person requesting the formal hearing shall submit a written petition to the enforcement agency:

(1) within ten (10) working days of the date of the notice of violation, or

(2) within five (5) working days of the date of the enforcement agency's written determination, if the issues were disputed at an informal conference.

(c) The written petition shall:

(1) provide the name, address, and phone number of the petitioner,

(2) provide the petitioner's reasons for requesting a formal hearing,

(3) summarize each issue to be disputed at the formal hearing, and

(4) state the remedy the petitioner is seeking.

(d) Upon receipt of the petition, the enforcement agency shall set a time and place for the formal hearing and shall provide the petitioner with written notice of the scheduled hearing.

(1) The formal hearing shall commence within ten (10) working days of the date of the petition.

(2) The petitioner shall have the right to apply for the postponement of the date of the formal hearing for a reasonable amount of time. The petitioner shall provide a good–cause reason for the request.

(3) The enforcement agency shall grant a request for postponement if it determines that the petitioner has good–cause reason for the postponement.

(e) The formal hearing shall provide the petitioner with the opportunity to be heard and to show cause why the notice of violation should be modified or withdrawn.

(1) The petitioner shall be entitled to call witnesses to testify at a formal hearing.

(2) The petitioner shall be entitled to be represented by legal counsel at a formal hearing.

(f) Within ten (10) working days of the formal hearing, the enforcement agency shall provide in writing a final, formal order to the petitioner. The final, formal order shall:

(1) sustain, modify, or withdraw the notice of violation issued pursuant to section 18867 of the Health and Safety Code; and

(2) clearly state the enforcement agency's findings upon which the final, formal order is based.

NOTE: Authority cited: Sections 18865 and 18868, Health and Safety Code. Reference: Sections 18867, 18868 and 18870.14 Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 2758. Petition to Review Order of Local Enforcement Agency Following Formal Hearing.

(a) A park owner or operator, or the registered owner of a unit,

(1) who has received a notice of violation issued pursuant to Health and Safety Code section 18867 by an enforcement agency other than the department; and

(2) has received a final, formal order from the enforcement agency following a formal hearing, shall be entitled to petition the department to review and investigate, as necessary, the enforcement activities of the local enforcement agency.

(b) The petition shall be in writing and shall include the following:

(1) a copy of the original notice of violation;

(2) a copy of the enforcement agency's written determination, if an informal conference was held;

(3) a copy of the enforcement agency's final, formal order; and

(4) a clear, concise explanation of the issues that the petitioner continues to dispute.

(c) The department shall consider the petition in conjunction with the department's responsibility to monitor local enforcement activity pursuant to subdivision (d) of section 18865.7 of the Health and Safety Code.

(1) Within sixty (60) working days of the receipt of the petition, the department shall review the petition and provide the petitioner with written notice of whether the activities of the local agency require investigation by the department.

(2) If the department has determined that the activities of the local agency require investigation by the department, the written notice to the petitioner shall provide a time frame for the investigation.

(3) If the department investigates the enforcement activities of a local agency in response to one (1) or more petitions provided pursuant to subsection (a), the department shall notify each petitioner within sixty (60) days of the results of the department's investigation.

(d) If the department finds that the notice of violation, written determination, and/or final, formal order issued by the local enforcement agency reflect(s) nonenforcement of the law, the department shall initiate corrective action pursuant to the provisions of subdivision (d) of section 18865 of the Health and Safety Code.

(e) A petition filed pursuant to this section shall not extend the time for correction of the violation as provided in the original or any subsequent notice of violation issued by the local enforcement agency unless the department, based on the petition and materials submitted with the petition, determines there is a high likelihood that the local enforcement agency was incorrect in issuing the notice of violation.

NOTE: Authority cited: Section 18865, Health and Safety Code. Reference: Sections 18865.7, 18867 and 18868, Health and Safety Code.

HISTORY

1. New section filed 7–6–2004; operative 7–6–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

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CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Division 1. Housing and Community Development

Chapter 3. Factory–Built Housing and Mobile Homes

Vol. 33

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Chapter 3. Factory–Built Housing and Mobile Homes

Subchapter 1. Factory–Built Housing

Article 1. Application and Scope

§ 3000. Application and Scope.

The provisions of this subchapter are applicable to all factory–built housing manufactured after the effective date of this subchapter, except as otherwise permitted or required by the Health and Safety Code.

NOTE: Authority cited: Sections 17003.5, 19990 and 19991.3, Health and Safety Code. Reference: Section 19990, et seq., Health and Safety Code.

HISTORY

1. Repealer of Subchapter 1 (Sections 3100–3620) and new Subchapter 1 (Sections 3100–3620) filed 9–14–77; effective thirtieth day thereafter (Register 77, No. 38). For prior history, see Registers 70, No. 16; 71, No. 5; 71, No. 9; 71, No. 10; 71, No. 14; 72, No. 10; 72, No. 17; 72, No. 43; 73, No. 4; 74, No. 1; 74, No. 26; 75, No. 5; and 75, No. 39.
2. Repealer of Subchapter 1* (Articles 1–6, Sections 3100–3620, not consecutive, and Appendix A) and new Subchapter 1 (Articles 1–6, Sections 3000–3082, not consecutive) filed 7–11–83; effective thirtieth day thereafter (Register 83, No. 30).
3. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

* The reorganization of Subchapter 1 is printed as a repealer and adoption for clarity.

Article 2. Definitions

§ 3010. Definitions.

The following definitions and those contained in Division 13, Part 6 commencing with Section 19960, Health and Safety Code apply to the provisions of this subchapter.

"Agency, Design Approval" means, in addition to the definition contained in Section 19969.3, Health and Safety Code, a private entity which, as determined pursuant to Sections 3022.1 and 3022.2 is:

(1) Independent and free from conflict of interest, and has the ability to enforce, and shall enforce, the provisions of this subchapter without an actual or any appearance of a conflict of interest.

(2) Staffed with qualified personnel who can and shall implement all provisions of this subchapter relating to the evaluation of factory–built housing plans and specifications as demonstrated by compliance with Section 3022.1(a)(3) and (b)(1)–(3).

(3) Has the authority and the ability to obtain corrections of the detected or reported defects.

"Agency, Listing" means an agency approved by the department which is in the business of listing or labeling and which maintain a periodic inspection program on current production of listed models, and which makes available at least an annual published report of such listing in which specific information is included that the product has been tested to approved standards and found safe for use in a specified manner.

"Agency, Quality Assurance" means an organization which:

(1) Is in the business of inspecting equipment and systems;

(2) Conducts a Quality Assurance program;

(3) Is not under the control or jurisdiction of any manufacturer or supplier for any affected industry except by contract as required and approved by the department;

(4) Makes available specific information as required by the department;

(5) Is certified and approved by the department.

"Agency, Testing" means an organization which is:

(1) In the business of testing equipment and installations;

(2) Qualified and equipped for experimental testing;

(3) Not under the jurisdiction or control of any manufacturer or supplier for any affected industry;

(4) Maintaining at least an annual inspection program of all equipment and installations currently listed or labeled;

(5) Making available a published directory showing current listings of manufacturer's equipment and installations which have been investigated, certified and found safe for use in a specified manner and which are listed or labeled by the testing agency;

(6) Approved by the department.

"Field Technical Service" means interpretation and clarification by the department or design approval agency of technical data relating to the application of this subchapter, but not including inspection.

"In Substantial Part Manufactured" means a module or major portion of factory–built housing assembled at an offsite location, in such a manner that all portions may not be inspected at the installation site without disassembly or destruction of the part.

"Insignia of Approval" means a tab or tag issued by the department to indicate compliance with this subchapter.

"Labeled" means equipment bearing an inspection label of an approved testing or listing agency.

"Listed" means all equipment and installations that appear in a list published by an approved testing or listing agency.

"Local Inspection Agency" means a local government building department authorized and approved pursuant to Sections 3036 and 3037.

"Manufacturer" means any person who produces factory–built housing.

"Model" means a specific design of factory–built housing, as designated by the manufacturer, identifiable as such for purposes of plan checking, quality control, quality assurance, in–plant and on–site inspection.

"Modified" means any change from the approved plans or installation instructions which in the opinion of the department, design approval agency or local enforcement agency would affect the structural, mechanical, electrical or plumbing systems of factory–built housing bearing a department insignia of approval.

"Professional Engineer" means an engineer holding a valid certificate under Chapter 7 (commencing with Section 6700) of Division 3, of the Business and Professions Code, in that branch of engineering which is applicable.

"System" is a combination of structural, plumbing, mechanical or electrical elements, components or subassemblies.

NOTE: Authority cited: Sections 17003.5, 19969.3, 19990 and 19991.3, Health and Safety Code. Reference: Sections 19969.3, 19990 and 19991.3, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

Article 3. Administration and Enforcement

§ 3020. Manufacturing Requirements.

Every manufacturer of factory–built housing subject to requirements of this subchapter shall obtain plan approval for each model, and shall obtain insignia for each unit manufactured. The manufacturer shall maintain a quality control program, and the units shall be manufactured in accordance with the approved plans and shall be inspected as required by provisions of this subchapter. No factory–built housing bearing a department insignia of approval shall be in any way modified prior to installation unless approval is first obtained from the department or design approval agency.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980, 19981, 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3020.1. Contract Requirements.

(a) All contracts, and any amendments thereto, executed between a manufacturer and a Design Approval Agency, shall be in writing, and the

agency or agencies shall submit a copy of each contract or amendment thereto to the department no later than ten (10) days after the effective date of the contract.

(b) In the event of cancellation of any contract executed between a manufacturer and a Design Approval Agency, the design Approval Agency or Quality Assurance Agency shall notify the department in writing no later than ten (10) days after the cancellation. The written notice shall include an explanation of the circumstances which led to the cancellation by the manufacturer or the Design Approval Agency or Quality Assurance Agency.

NOTE: Authority cited: Sections 19990, 19991.3 and 19991.4, Health and Safety Code. Reference: Sections 19991.3 and 19991.4, Health and Safety Code.

HISTORY

1. New section filed 6–15–89; operative 7–15–89 (Register 89, No. 25).

§ 3021. Compliance.

Plan approval of each model of factory–built housing shall be contingent upon compliance with the requirements of this subchapter. Violation of any of the provisions of this subchapter or variations from the approved plans shall be cause for revocation of the plan approval by the department or design approval agency.

NOTE: Authority cited: Sections 17003.5, 19990 and 1991.3, Health and Safety Code. Reference: Sections 19983, 19990, 199991 and 19991.3, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3022. Field Technical Service.

Any person may request field technical service. Requests for such service shall be submitted to the department in writing, together with required fees as specified in this subchapter. Requests from out–of–state shall be accompanied by a cashier's check or money order payable to the Department of Housing and Community Development.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19982 and 19990, Health and Safety Code.

§ 3022.1. Design Approval Agency—Certification Application Requirements.

(a) An application for design approval agency certification must be made to the department in writing and such application shall include the following information and documentation:

(1) An organizational chart of the agency, including reference to any interlocking organizational relationships;

(2) Personnel resumes;

(3) Reports and other documentation indicating capability and capacity to carry out design approval activities;

(4) A statement under penalty of perjury that the agency and its staff have no institutional or contractual relationships with any manufacturer, architect, engineer, or other person or entity which would create the appearance of, or an actual, conflict of interest;

(5) The applicant's proposed contract and fee schedule; and

(6) Documentation necessary to demonstrate the applicant's eligibility to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

(b) Reports and other documentation indicating the applicant's capability and capacity to carry out design approval activities shall contain, at a minimum, the following information:

(1) Availability of licensed engineers and architects and other required professional and support staff adequate to process estimated workload;

(2) Prior experience satisfactory to contractors or clients in reviewing and/or preparing plans for factory–built or conventional structures;

(3) Description of proposed review process and procedures to ensure design defects are corrected.

(c) An application for certification shall be accompanied by fees for certification of design approval agencies as set forth in Section 3060.

(d) The department reserves the right to request additional documentation and information to make the findings necessary for certification.

NOTE: Authority cited: Sections 19968, 19990 and 19991.3, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Sections 19982, 19990 and 19991.2, Health and Safety Code.

HISTORY

1. New section filed 11–18–86; effective upon filing (Register 86, No. 47).
2. New subsection (a)(6) and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
3. New subsection (a)(6) and amendment of NOTE refiled 8–4–98 as an emergency, including additional amendment of subsections (a)(4) and (a)(5); operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8–4–98 order, including amendment of subsection (a)(6), transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 3022.2. Design Approval Agency—Notice of Receipt of Complete Certification Application and Application Review.

(a) Within 15 days of receiving the application, the department shall review each application for design approval agency certification received pursuant to this subchapter and notify the applicant in writing of either the acceptance of the application for filing, or the rejection of the application due to incompleteness or errors, specifically identifying the incompleteness of errors and what must be done in order to make the application complete and acceptable.

(b) Within 60 days of receiving a completed application, the department will complete its review of the application and shall grant or deny a certification.

(c) Nothing in this section shall be construed as preventing the department from requesting additional information or documentation from an applicant after the receipt of a completed application, or from seeking additional information from other persons or entities regarding the applicant's fitness for certification during the 60–day review period.

NOTE: Authority cited: Section 15376, Government Code. Reference: Sections 15374–15378, Government code; and Section 19991.3, Health and Safety Code.

HISTORY

1. New section filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3022.3. Design Approval Agency—Requirements for Certification and Decertification.

(a) Upon completion of its review of a completed application, the department shall issue a certification if all of the following conditions have been met.

(1) All of the information required in Section 3022.1 has been provided by the applicant to the department's satisfaction;

(2) The certification fees required by Section 3060 have been paid;

(3) The department is satisfied that there is no actual or apparent conflict of interest between any manufacturer, architect, engineer or other person and the applicant;

(4) The department is satisfied that the applicant's proposed fee structure is not disproportionate with regard to the services to be performed; and

(5) The department is satisfied that the applicant has the capability and capacity to carry out the activities of this subchapter.

(b) The certification of a design approval agency shall expire 36 months from the date the certification was issued. Application for recertification shall be as specified in Section 3022.1.

(c) The department may revoke its certification of a design approval agency for cause. For the purposes of this section, "cause" shall be acts or omissions during the certification process or subsequent to certification which would have resulted in a denial of certification if such acts or omissions had occurred or existed prior to certification.

(d) A department refusal to issue a certification, or a revocation of certification, shall be subject to an informal administrative appeal before the Director or his or her designee pursuant to Section 3056.

NOTE: Authority cited: Sections 17003.5, 19990 and 19991.3, Health and Safety Code. Reference: Sections 19990 and 19991.3, Health and Safety Code.

HISTORY
1. New section filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3022.4. Design Approval Agency Reporting Requirements.

(a) Design Approval Agencies shall prepare and maintain written reports of all design approval activities performed pursuant to this subchapter. Each report shall be maintained for a period of three (3) years from the date of the approval by the design approval agency.

(b) Upon approval by the design approval agency of each plan, quality control annual or amendment thereto, the design approval agency shall submit a report of such approval to the department. The report shall be submitted concurrent with notification of approval to the manufacturer. The report shall list each plan and manual or amendment to such, which were approved. The report shall be on form HCD 309(A), Factory–Built Housing Notification of Plan Approval, dated March, 1989, and provided by the department and shall contain the following information:

(1) Identification, address and telephone number of the design approval agency.

(2) The name, address, telephone number and identification number of the manufacturer.

(3) The assigned plan approval number.

(4) The date of the approval and signature of the approving officer.

(5) The expiration date of the approval.

(6) An indication of the types of units, for which plans are approved.

(7) The location and telephone number of the manufacturing plant.

(8) The date of the report.

(9) The application number and the date it was received.

(10) The model number for each unit and a description of the work or the change in the work outlined in the plan.

(c) By the fifteenth day of each month and on form HCD–FB 309(C) Factory Built Housing Design Approval Agency Monthly Activity Report, dated December 89 and provided by the department, a Design Approval Agency shall prepare and transmit to the department the following information:

(1) The Design Approval Agency name, address, agency number and telephone number.

(2) The reporting month and year.

(3) The date that the report was prepared.

(4) The name and identification number of each client manufacturer served in the previous month.

(5) The total number of plans, plan renewals, plan amendments, manuals and manual amendments approved for each client manufacturer served in the previous month.

(6) The total number of plans, plan renewals, plan amendments, manuals and manual amendments rejected for each client manufacturer served in the previous month.

(7) The subtotal(s) of all plans, plan renewals, plan amendments, manuals and manual amendments approved or rejected on page(s) 1 and/or 2.

(8) The grand total number of all plans, plan renewals, plan amendments, manuals and manual amendments approved or rejected by adding the subtotals on pages 1 and/or 2.

(9) The fees calculated as follows:

(A) For plans approved, multiply the total number by the fee specified in section 3060(m).

(B) For plan renewals approved, multiply the total number by the fee specified in section 3060(m).

(C) For plan amendments approved, multiply the total number by the fee specified in section 3060(m).

(D) For manuals approved, multiply the total number by the fee specified in section 3060(m).

(E) For manual amendments approved, multiply the total number by the fee specified in section 3060(m).

(10) The total fees attached by adding the fees for plans approved, plan renewals approved, plan amendments approved, manuals approved and manual amendments approved.

(11) The signature and title of the authorized person certifying under penalty of perjury to the accuracy of the information provided.

(12) The date that certification was signed.

(d) The Design Approval Agency shall number the front and back pages on form HCD–FB 309(C) Factory–Built Housing Design Approval Agency Monthly Activity Report, dated December 1989.

(e) Each Design Approval Agency monthly activity report shall be accompanied by a copy of each plan, manual or amendment approved during the previous month and the fee specified by section 3060(m), for each plan, manual or amendment approved during the reporting month.

NOTE: Authority cited: Sections 19990 and 19991.3, Health and Safety Code. Reference: Section 19991.3, Health and Safety Code.

HISTORY
1. New section filed 6–15–89; operative 7–15–89 (Register 89, No. 25).
2. Editorial correction of NOTE (Register 89, No. 41).
3. Amendment filed 5–3–90; operative 6–29–90 (Register 90, No. 30).

§ 3023. Plan Approval.

(a) A plan approval shall be obtained from the department or a design approval agency for each model of factory–built housing which is subject to this subchapter.

(b) After obtaining plan approval, the manufacturer shall notify the department and the inspection agency in writing when he will commence manufacturing the first units of each approved model.

NOTE: Authority cited: Sections 17003.5, 19983 and 19990, Health and Safety Code. Reference: Sections 19980, 19983 and 19990, Health and Safety Code.

HISTORY
1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3024. Application for Plan Approval.

Application to the department or design approval agency for plan approval shall include the following:

(a) Completed application in duplicate on forms prescribed by the department.

(b) Two complete sets of plans, calculations, and test data when required.

(c) Three sets of quality control manuals or reference to applicable manuals which have previously been submitted and approved for prior models.

(d) When plans are submitted to the department the fees shall be as specified in Section 3060.

(e) If the applicant's manufacturing plan is out–of–state, the application shall include a statement signed by the applicant that he agrees to in–plant inspections and that he will apply for insignia for his factory–built housing pursuant to Section 3054.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980, 19983 and 19990, Health and Safety Code.

HISTORY
1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3025. Nonconforming Application and Plans.

(a) In the event the application is incomplete or unsuitable for processing, the applicant shall be notified in writing within seven working days of the date it is received by the department or design approval agency. Should the applicant fail to submit a completely corrected application in accordance with the information supplied by the department or design approval agency within 90 calendar days of such notice, the application will be deemed abandoned and all fees submitted will be forfeited to the department or design approval agency. Subsequent submissions shall be treated as a new application.

(b) In the event the plans are incomplete or require corrections, the applicant shall be notified in writing within a median of seven working days of the date the plans are received by the department or design approval agency. Should the applicant fail to submit complete or corrected plans in accordance with the information supplied by the department or

design approval agency within 120 calendar days of such notice, the plans will be deemed abandoned and all fees submitted will be forfeited to the department or design approval agency. The 120-day limitation may be extended for cause by the department or design approval agency. For the purposes of this section, "cause" may be demonstrated by actions or omissions beyond the control of the applicant which delay final approval. A request for extension must be initiated by the applicant. Where plans have expired, any resubmittal for plan approval shall be as required for a new application for plan approval.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980, 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment of Section 3025 and renumbering and amendment of former Section 3026 to Section 3025(b) filed 11-18-86; effective upon filing (Register 86, No. 47).

§ 3026. Expiration of Application.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980 and 19990, Health and Safety Code.

HISTORY

1. Renumbering and amendment of Section 3026 to Section 3025(b) filed 11-18-86; effective upon filing (Register 86, No. 47).

§ 3027. Withdrawal of Application.

If an applicant requests withdrawal of his application for plan approval, he may make written request for refund of unspent fees, except that plan filing fees shall not be refundable.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980, 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 11-18-86; effective upon filing (Register 86, No. 47).

§ 3028. Plan Requirements.

(a) Plans submitted to the department or design approval agency shall indicate every pertinent item necessary for design, assembly and installation. The plans shall include, when applicable, dimensions, framing plans, cross sections, details of connections, material specifications, floor plans, designed room use, exterior wall elevations, general notes, methods of installation, and line diagrams, materials and details of electrical, mechanical and plumbing systems. Design calculations shall be submitted separately from the plan sheets.

(b) Plans shall list all applicable design criteria.

(c) Plan sheets shall not be less than 11″ x 17″ nor more than 30″ x 42″. The first sheet shall contain the address of the manufacturer and his manufacturing plant(s). Each sheet shall be numbered and contain the name of the manufacturer, model designation and a blank space in the lower right hand corner for the stamp of approval. The blank space shall not be less than 3 1/2″ wide by 5 1/2″ high, except it may be a minimum of 3″ x 3″ for building component and building system plans.

(d) Except for schematic drawings, plans shall be drawn to a scale of not less than 1/8 inch per foot.

(e) When floor plans are applicable, the manufacturer shall identify separate floor plans based on a specific size, room arrangement, method of construction, location or arrangement or size of plumbing, electrical or mechanical equipment. Any variations, including design loadings shall be shown and properly identified on separate plan sheets.

(f) Plans shall indicate the location on the unit where the department insignia of approval is to be applied.

(g) Plans shall include a resume of what installation work is to be done on-site.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment of subsections (a), (c) and (e) filed 11-18-86; effective upon filing (Register 86, No. 47).

§ 3029. Model Designation Requirements.

(a) Separate models shall be provided for each type of construction and shall be shown on a separate set of plans.

(b) Each model shall be uniquely designated.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Section 19990, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) and repealer of subsection (c) filed 11-18-86; effective upon filing (Register 86, No. 47).

§ 3030. Models Manufactured at More Than One Location.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Section 19990, Health and Safety Code.

HISTORY

1. Repealer filed 11-18-86; effective upon filing (Register 86, No. 47).

§ 3031. In-Plant Quality Control.

(a) Concurrent with the request for plan approval, the manufacturer shall submit to the department or design approval agency two sets of a manual outlining a program of quality control. The program outlined must meet the standards of this subchapter.

(b) The manufacturer shall maintain records for not less than one year after manufacture to substantiate that each unit has been inspected and complies with the approved plans.

(c) The manufacturer shall have in-plant inspections performed by one of the following agencies to verify that the units have been produced in accordance with the manufacturer's quality control program and comply with the approved plans.

(1) Where there is a local inspection agency certified by the department, it shall perform the required in-plant inspections and enforce compliance with the quality control manual and plans.

(2) Where there is no certified local inspection agency, the manufacturer may contract with a quality assurance agency approved by the department to maintain a quality assurance program. The approved quality assurance agency shall provide a certification that all of the manufacturer's factory-built housing bearing an insignia of the department have been subject to the quality control program and are in compliance with plans as approved by the department or the design approval agency.

(3) Where there is no certified local inspection agency, the manufacturer may have the department perform the required in-plant inspections, with inspection fees to be paid as specified in Section 3061.

(d) When the in-plant inspections are performed by a certified local inspection agency or an approved quality assurance agency, the department shall make periodic inspections to verify that the units have been produced in accordance with the quality control program and comply with the approved plans. Periodic inspection fees shall be paid as specified in Section 3061.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19983, 19990, 19991.1 and 19991.2, Health and Safety Code.

HISTORY

1. Amendment filed 11-18-86; effective upon filing (Register 86, No. 47).

§ 3032. Required Inspections.

The inspection agency as applicable shall make at least the following inspections:

(a) For at least the first ten units of each model, produced at each manufacturing location, all systems including structural, electrical, mechanical and plumbing shall be inspected.

(b) Following inspection and approval of the first ten units, each system shall be inspected in at least 25 percent of all units produced thereafter, except the inspection level may be reduced to 10 percent for building components or building systems. The manufacturer shall request written approval from the department before reducing the level of inspection from the initial 100 percent inspection.

(c) The manufacturer may request written approval from the department to further reduce the frequency of inspection for building components, when it can be shown that the nature of the product, its end use, or the manufacturing process warrants a lesser inspection frequency.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19990, 19991.1 and 19991.2, Health and Safety Code.

§ 3033. Quality Control Manual Requirements.

(a) The quality control manual shall conform to the following:

(1) Pages of the manual shall be 8 1/2" x 11" in size, consecutively numbered and replaceable.

(2) The manual shall contain an index.

(3) The manual shall identify the company or corporate officer to be responsible for the quality control program.

(4) The manual shall set forth in detail how the manufacturer will maintain his quality control to meet the standards set forth in this subchapter.

(5) The manual shall specify how the units are identified during production for the purposes of inspection relative to the approved plans. The model, floor plan and design loading, as applicable, shall be indicated.

(6) The manual shall specify the procedure for maintaining a record system indicating the type and date of inspections performed on each unit. Copies of the forms to be used shall be included.

(7) The manual shall provide a general outline and/or schematic indicating the sequence of the manufacturing and assembly processes. It shall also indicate the sequence, type, and frequency of the quality control procedures to be instituted.

(8) The manual shall specify the place and method of storage of materials and components, and shall indicate the degree of protection from the weather and the capacity to control such factors as temperature and humidity where required to prevent deterioration of materials.

(9) The manual shall specify the method of storage and support of the completed units at the manufacturing plant and any other location including the site prior to installation.

(10) The manual shall specify the inspection agency performing the in–plant inspections.

(11) If applicable, the manual shall contain either a copy of the contract between the manufacturer and the quality assurance agency, or a signed statement by a responsible officer of the manufacturing company that such an agreement is in force and effect prior to granting of plan approval by the department or design approval agency.

(b) If the in–plant inspections are to be performed by an approved quality assurance agency, the quality control manual shall contain a separate section outlining the quality assurance program to be utilized by the quality assurance agency in carrying out its responsibilities. This section of the manual shall contain at least the following:

(1) A detailed description of how the quality assurance agency will perform the in–plant inspections, including the frequency of the inspections required.

(2) An explanation of how discrepancies noted will be recorded, marked, and how corrections will be obtained.

(3) Details of how inspection reports are to be made to the department, together with samples of forms to be used. All inspection reports shall be submitted to the department at least monthly.

(4) An explanation of how certification of the factory–built housing is to be made, including a sample of the certification document or a facsimile thereof.

(5) Specific designation of the approved quality assurance inspector(s) who is to perform the in–plant inspections. If for any reason a designated quality assurance inspector specified in the quality control manual will no longer be assigned, the department shall be notified within 48 hours of such termination, and a replacement shall be designated.

NOTE: Authority cited: Sections 17003.5, 19983 and 19990, Health and Safety Code. Reference: Sections 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment of subsections (a)(4), (a)(11) and (b)(1) filed 11–18–86; effective upon filing (Register 86, No. 47).
2. Amendment of subsection (b) (2) filed 6–15–89; operative 7–15–89 (Register 89, No. 25).

§ 3034. Quality Assurance Agency—Requirements for Certification.

(a) A quality assurance agency prior to certification by the department shall provide at least the following:

(1) An official request in writing for such certification accompanied by the fee specified in this subchapter.

(2) An organizational chart setting forth its organizational structure, including reference to any interlocking organizational relationships.

(3) Documented evidence substantiating that the agency is in the business of inspecting equipment and systems relating to the manufacture of factory–built housing.

(4) Documented evidence of capability to perform and carry out a quality assurance program.

(5) A statement under penalty of perjury that the agency is not under the control or jurisdiction of any manufacturer or supplier for any industry affected by the California Factory–Built Housing Law except by contract approved by the department.

(6) Documentation necessary to demonstrate the applicant's eligibility to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

(b) Personnel assigned by the quality assurance agency to make in–plant inspections shall first be certified by the department as a quality assurance inspector.

(c) The department may revoke its certification of a quality assurance agency or its assigned quality assurance inspector for cause. For the purposes of this section, "cause" shall be acts or omissions during the certification process or subsequent to certification which would have resulted in a denial of certification if those acts or omissions occurred or existed prior to certification. A department revocation may be subject to appeal an informal administrative appeal before the director or his or her designee pursuant to Section 3056.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Section 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).
2. New subsection (a)(6) and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
3. New subsection (a)(6) and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8–4–98 order, including amendment of subsection (a)(6), transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 3034.1. Quality Assurance Agency Reporting Requirements.

(a) Quality Assurance Agencies shall prepare and maintain written reports of all inspection activities performed pursuant to this subchapter.

(b) Each Quality Assurance Agency shall submit a written report to the department, by the fifteenth day of each month. The report shall summarize the inspection activities conducted the previous month for each client manufacturer. The report shall be on form HCD 309(B), Factory–Built Housing Quality Assurance Agency Monthly Report, dated March, 1989, and provided by the department and shall contain the following information:

(1) The name, address and telephone number of the Quality Assurance Agency.

(2) The name, address, telephone number and identification number of the manufacturer.

(3) The location and telephone number of the manufacturing plant.

(4) The date of the report.

(5) The month for which inspection activities are being summarized.

(6) The number and dates of inspection visits.

(7) A brief narrative assessing the adequacy of the manufacturer's quality control program..

(8) The signature and title of the officer reviewing the monthly report.

(9) The number of units approved for Factory–Built Housing insignia during the month for which inspection activities are being summarized, and the serial numbers of those units.

(10) A copy of each quality assurance inspection report prepared pursuant to Section 3035.1 of this subchapter.

(c) The quality assurance shall retain all reports, or copies thereof, required by this subchapter, for a period of three (3) years.

(d) The quality assurance agency shall notify the department of their discovery of units shipped from the location of manufacture without required inspection or insignia, or otherwise not in compliance with the Factory–Built Housing Law or this subchapter. The notification shall be provided in writing within 24 hours of the discovery.

NOTE: Authority cited: Sections 19990 and 19991.4, Health and Safety Code. Reference: Sections 19990 and 19991.4, Health and Safety Code.

HISTORY

1. New section filed 6–15–89; operative 7–15–89 (Register 89, No. 25).

§ 3035. Quality Assurance Inspector—Requirements for Certification.

(a) A quality assurance inspector shall, prior to certification by the department, meet the following requirements:

(1) An application for certification shall be made on forms obtainable from the department and accompanied by fees as specified in Section 3060. The application shall contain a resume of education and work experience.

(2) Inspection personnel designated to perform the in–plant inspections shall be certified by an examination conducted by the department. The examination will consist of a written test based on the Factory–Built Housing Law, the administrative regulations related thereto, and the building systems employed in the construction of factory–built housing. A minimum rating of 70% must be attained.

(3) Demonstration of the capability to note construction violations during actual in–plant inspections.

(4) Demonstration of eligibility to receive public benefits, pursuant to chapter 5.5 of this division, beginning with section 5802.

(b) The certification of a quality assurance inspector shall expire 36 months from the date of initial certification. Application for recertification shall be as specified in subsection (a)(1).

(c) The department may revoke its certification of a quality assurance inspector for cause. "Cause" shall be established upon the findings of acts or omissions subsequent to certification which result in the placing of insignia on units or modules which are not in compliance with this subchapter. A department revocation may be subject to an informal administrative appeal before the Director or his or her designee pursuant to Section 3056.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Section 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).
2. New subsection (a)(4) and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
3. New subsection (a)(4) and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8–4–98 order transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 3035.1. Quality Assurance Inspector Reporting Requirements.

(a) As the representative of the quality assurance agency, the quality assurance inspector shall prepare an inspection report at the end of each inspection visit before leaving the location of the inspection.

(b) A copy of the report shall be provided to the manufacturer before the inspector leaves the location of the inspection and shall include the following information:

(1) The name of the quality assurance agency, the Quality Assurance Inspector, and the manufacturer.

(2) The date of the inspection.

(3) A brief narrative describing the inspection activities, i.e., production, finished units, material storage, test, quality control inspection, etc.

(4) The model number, plan approval number, serial number and type of each unit inspected.

(5) The unit location in the production sequence when inspected, including any finished units bearing insignia.

(6) For each unit inspected or tested, a description of violations observed and action taken to correct the violations and eliminated recurrence.

(7) An order to hold any unit found to be in violation and which could not be brought into compliance during the inspection visit.

(8) A brief narrative summarizing the effectiveness of the manufacturer's quality control program and any requirements for needed improvements.

NOTE: Authority cited: Sections 19990 and 19991.4, Health and Safety Code. Reference: Section 19991.4, Health and Safety Code.

HISTORY

1. New section filed 6–15–89; operative 7–15–89 (Register 89, No. 25).

§ 3036. Local Inspection Agency.

(a) As set forth in Section 19991.1 of the Health and Safety Code, a city or county building department may assume responsibility for in–plant inspections of factory–built housing, when certified by the department.

(b) In the event the governing body cancels its assumption of responsibility, the department upon receipt of official notice shall assume such responsibility within 30 days.

(c) The local inspection agency shall authorize the manufacturer to affix the department's insignia of approval, when units have been subject to the quality control program and are in compliance with plans as approved by the department.

(d) The local inspection agency shall keep a record of what units have been authorized for the affixing of insignia and shall, each month, make a report of such units to the department.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19990 and 19991.1, Health and Safety Code.

§ 3037. Local Inspection Agency—Requirements for Certification.

(a) The governing body electing by ordinance to have its building department assume responsibility for in–plant inspections of factory–built housing shall file a copy of such ordinance with the department.

(b) After 30 days' written notice to the department and when meeting the department's requirements for certification, the governing body and the local inspection agency shall be advised in writing that enforcement responsibility may be commenced.

(c) If the department's certification requirements have not been met by the local inspection agency, the governing body and the local inspection agency shall within a reasonable time be advised in writing by the department. Such notification shall set forth in detail the reasons why certification may not be granted.

(d) The local inspection agency shall designate the person(s) who are to perform the in–plant inspections at each place of manufacture within the political limits of the jurisdiction and provide the department with a resume of each persons education and work experience. If only one person is designated for a particular place of manufacture, the name of a back–up inspector shall be provided. These designations shall be kept current.

(e) Inspection personnel designated to perform the in–plant inspections shall be certified by an examination conducted by the department. The examination will consist of a written test based on the Factory–Built Housing Law, the administrative regulations related thereto, and the building systems employed in the construction of factory–built housing. A minimum rating of 70% must be attained. Inspection personnel shall also demonstrate capability to note construction violations during actual in–plant inspections.

(f) The certification of local inspection agency inspectors shall expire 36 months from the date of initial certification. Application for recertification shall be as specified in subsection (e).

(g) The department may revoke its certification of the local inspection agency or an in–plant inspector for cause. "Cause" shall be established

upon the findings of acts or omissions subsequent to certification which result in the placing of insignia on units or modules which are not in compliance with this subchapter. A department revocation may be subject to an informal administrative appeal before the director or his or her designee pursuant to Section 3056.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19990 and 19991.1, Health and Safety Code.

HISTORY

1. Amendment of subsections (d), (f) and (g) filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3038. Identification.

(a) Each factory–built dwelling, dwelling unit, individual dwelling room or combination thereof shall have attached thereto a permanent unit serial number. The unit serial number shall be visible throughout all phases of construction, including installation at the site.

Unit serial numbers shall consist of at least the following:

(1) Unit serial numbers for factory–built housing consisting of a single unit shall be a single serial number, i.e. 1000.

(2) Unit serial numbers for factory–built housing consisting of two or more units shall, for the purpose of identifying each unit as part of a specific group, conform to the format of:

x–y (z)

where: x is a serial number common to each unit in the group,
y is a number or letter identifying a specific unit within the group, i.e. 1, 2, 3, or A, B, C, etc.,
z is an optional number denoting the total number of units in the group.

An example of unit serial numbers for factory–built housing consisting of two units would be 1000–1(2) and 1000–2(2).

(b) Building components shall be identified for the purpose of in–plant and on–site inspection.

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(c) Units produced within California which are to be sold or offered for sale outside of California shall be identified.

(d) Units produced outside of California, which are to be sold or offered for sale in California by a manufacturer having plan approval issued by the department, shall be specifically identified.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Section 19990, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3039. Insignia of Approval.

(a) Each factory–built dwelling, dwelling unit, individual dwelling room or combination of rooms thereof, manufactured and shipped or transported separately pursuant to these regulations, shall have an insignia of approval attached thereto prior to shipment from the factory or place of manufacture. The insignia shall be placed in a visible location as shown on the plans and shall contain the following information:

(1) Name of Manufacturer
(2) Model Designation
(3) Unit Serial Number
(4) Plan Approval Number
(5) Date of Manufacture
(6) Insignia Serial Number
(7) Design wind load and exposure, roof live load, and seismic zone.

The insignia shall be purchased from the department and shall be imprinted by the manufacturer with the information required by 2, 3, 4, 5 and 7 above prior to affixing the insignia to the unit.

(b) Each building component manufactured pursuant to this subchapter shall have an insignia of approval attached thereto prior to shipment from the factory or place of manufacture. The insignia shall be placed in a visible location as shown on the plans and shall contain the plan approval number. The insignia shall be purchased from the department and shall be imprinted by the manufacturer with the plan approval number.

(c) Insignia shall remain the property of the department and may be confiscated by the department or inspection agency in the event of violation of the conditions of approval. In such case, no refund of insignia fees shall be made.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3040. Application for Insignia.

Following receipt of plan approval, the manufacturer shall make application for insignia for all factory–built housing manufactured pursuant to this subchapter.

Application shall be made on forms provided by the department and shall be submitted in triplicate to the Sacramento Administrative Office accompanied by fees as specified in Section 3060.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3041. Use of Insignia.

Each manufacturer shall maintain a record of the use of insignia and shall report monthly to the department regarding such use and the location of each unit produced pursuant to this subchapter.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3042. Refund of Insignia Fees.

A manufacturer may request refund of the fees paid for unused insignia. Such request shall be in writing. The department shall, upon receipt of the insignia, refund the fees paid, less a twenty–five dollar ($25) handling fee. Fees paid for insignia held longer than two years from date of issuance shall not be subject to refund.

NOTE: Authority cited: Sections 17003.5, 19982 and 19990, Health and Safety Code. Reference: Sections 19882, 19980 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 5–3–90; operative 6–29–90 (Register 90, No. 30).

§ 3043. Denial of Insignia.

Should inspection reveal that a manufacturer is not manufacturing units according to plans approved by the department or design approval agency, and such manufacturer, after having been served with a notice setting forth in what respect the provisions of the plan approval have been violated, continues to manufacture units in violation of the plan approval, application for new insignia shall be denied by the department and the insignia previously issued for units in violation of the plan approval shall be confiscated by the department. Upon proof of compliance satisfactory to the department or design approval agency such manufacturer may resubmit an application for insignia.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980, 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3044. Insignia Removal.

In the event that any unit bearing insignia is found to be in violation of the approved plans, the inspection agency may remove the insignia and shall furnish the manufacturer or first user or both with a written statement of such violations.

The manufacturer or first user or both shall request an inspection from the inspection agency after making corrections to bring the unit into compliance before the department shall issue a replacement insignia.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3045. Lost or Damaged Insignia.

(a) When an insignia becomes lost or damaged, the department shall be notified in writing by the manufacturer. The manufacturer shall also provide the unit's serial number and when possible the insignia number. All damaged insignia shall be promptly returned to the department. Damaged and lost insignia shall be replaced by the department with a replacement insignia on payment of the replacement insignia fees as specified in Section 3060.

(b) Insignia on which information has been incorrectly imprinted may be returned for replacement subject to the replacement insignia fees as specified in Section 3060.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3046. Evidence of Approval.

The quality control manual must be approved by the department or design approval agency prior to issuance of plan approval.

The approval of the plans and quality control manual shall be evidenced by the stamp of approval of the department or the design approval agency. Approved copies of each shall be returned to the manufacturer and shall be kept at each place of manufacture and made available to department representatives, the design approval agency, the local inspection agency, or representatives of the quality assurance agency. No changes, additions, or deletions to the approved plans and quality control manual shall be acceptable without prior written approval of the department or the design approval agency.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3047. Changes to Approved Plans or Quality Control Manual.

When the manufacturer proposes to change the approved plans or quality control manual, two sets of the revised plans or quality control manual shall be submitted to the department or design approval agency for approval.

The submission shall be accompanied by an application made in duplicate on forms prescribed by the department. Where the department is the enforcement agency fees shall be as specified in Section 3060.The application shall contain a narrative description of the proposed change.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19982 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3048. Plan Approval Expiration.

Plan approvals shall expire 36 months from the date of approval by the department or design approval agency. Application for plan approval renewal shall be made in duplicate on forms prescribed by the department together with two sets of plans, calculations, quality control manuals, and test data when required. Where the department is the enforcement agency fees shall be as set forth in Section 3060.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19982, 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3049. Existing Plan Approvals.

When amendments to this subchapter require changes to an approved plan or quality control manual, the department or design approval agency shall notify the manufacturer of these amendments and shall allow the manufacturer 60 days from the date of such notification, or such additional time as the department or design approval agency deems reasonable, in which to submit revised plans or quality control manuals and obtain approval from the department or design approval agency. Submissions made pursuant to this section shall be processed as changes to approved plans or quality control manual. Submissions made after the time period provided shall be processed as a new plan approval.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19982, 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3050. Plan Approval Revocation.

A plan approval shall remain in force and effect until revoked.

Automatic revocation of a plan approval shall occur upon expiration, or failure of the manufacturer to obtain approval of changes pursuant to Section 3049.

The department or design approval agency may revoke a plan approval upon finding definite evidence that said plans are inconsistent with these regulations or that the product is not being constructed in accordance with the approved plans and quality control manual. A revocation may be subject to an informal administrative appeal before the director or his or her designee pursuant to Section 3056.

This section shall not be construed to prohibit a manufacturer from submitting, for a new plan approval, a plan which has been revoked as provided in this section.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19982, 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3051. Change of Ownership, Name or Address.

When there is a change of ownership, name or address of a manufacturing business having department or design approval agency plan approval, the department and design approval agency shall be notified of such change within ten days. Where the department is the enforcement agency the notification shall be accompanied by fees as specified in Section 3060. Previously approved plans and quality control manuals containing the correct name and address of the manufacturer and his plant locations shall be submitted to the department or design approval agency if applicable. In the event of a change of ownership, application for changes to the approved plans or quality control manual shall not be required if the new owner submits a certification that he will continue to manufacture in accordance with previously approved plans and quality control manual, and if applicable, the contract with the existing quality assurance agency will be continued.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19982, 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3052. Discontinuance of Manufacture.

When a manufacturer discontinues production of a model having department or design approval agency plan approval, the manufacturer shall advise the department and design approval agency of the date of such discontinuance and return all insignia allocated for such discontinued models. Refund of insignia fees shall be as specified in Section 3060.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980, 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3053. Prototype.

(a) Notwithstanding any other provisions of this subchapter, a manufacturer may build, prior to plan approval, one prototype of each model of a dwelling or individual dwelling room or combination thereof, he proposes to manufacture provided:

(1) The manufacturer informs the inspection agency in writing that he proposes to build a prototype, submitting the proposed unit serial number and a description of his proposal, and,

(2) If the description generally complies with the requirements of this subchapter and the inspection agency provides written approval to build said prototype, and,

(3) Requests for inspection are to be made to the inspection agency, and

(4) Where the department is the inspection agency, inspection fees as specified in Section 3061 are paid at time of inspection.

(b) The inspection agency, upon request, shall inspect prototypes based upon visual in–plant inspections to determine compliance with the requirements of these regulations.

(c) Upon completion of prototype construction and approval by the inspection agency, the manufacturer shall submit a complete plan of his prototype to the department or design approval agency for approval.

Prototype plans shall be subject to the requirements relating to installation plans.

(d) Insignia shall be purchased by the manufacturer and shall be affixed to the prototype by a representative of the inspection agency, after determination that the unit complies with the requirements of these regulations.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980, 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3054. Reciprocity.

(a) Except as otherwise specified in this section, the provisions contained in this subchapter shall apply to the manufacturing of factory–built housing designed, constructed, and intended to be shipped or transported to or from another state which has entered into a reciprocal agreement with the State of California, Department of Housing and Community Development.

(b) Any manufacturer who wishes to manufacture and ship factory–built housing in accordance with the provisions set forth in the reciprocal agreements between any state and the State of California must meet the qualifications established by statute or regulation in such states. Prior to approval to manufacture under reciprocal agreement, the manufacturer

shall submit documented evidence that he, in fact, does meet such qualifications.

(c) Plan approval shall be obtained from the department or design approval agency for each model of factory–built housing which is to be manufactured under reciprocal agreement with another state. Where the department is the plan approval agency, fees shall be as specified in Section 3060.

(d) Factory–built housing manufactured in California under a reciprocal agreement shall be inspected during construction solely by the department. Inspection fees shall be as specified in Section 3060.

(e) Insignia shall be purchased by the manufacturer from each state and shall be affixed to each approved unit of factory–built housing. Application for California insignia shall be made on forms obtainable from the department. Fees for reciprocity insignia shall be as specified in Section 3060.

(f) Every manufacturer who wishes to ship units in reciprocity shall first agree in writing on a form acceptable to each state to correct any work not done in accordance with approved plans. He shall complete all corrections within a stipulated time period. A copy of the agreement shall be forwarded by the department to the reciprocating state.

Every manufacturer when operating under this agreement shall post a bond of sufficient amount to fully cover all work necessary to bring the unit into conformance with the approved plans. The bonding company shall be operating under the laws of both states. The bonding company shall submit a copy of the bond to each state. The bond shall cover any costs incurred by each enforcing state. This shall include attorney's fees, court costs, and other costs necessary to secure the results intended.

(g) Approval to build prototypes for shipment under reciprocal agreement shall not be granted.

(h) Upon written notice, this state or any state having a reciprocal agreement with this State may terminate the agreement. Such termination shall not occur less than 90 days from the date of written notification nor more than 6 months following such notification. The exact date of termination is subject to negotiation between such states.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980, 19983, 19985 and 19990, Health and Safety Code.

HISTORY

1. Editorial correction of subsection (f) filed 7–22–83; designated effective 8–10–83 (Register 83, No. 30).
2. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3055. Complaint Investigation.

Any owner of factory–built housing manufactured pursuant to the provisions of this subchapter may file a written complaint with the department setting forth the items which the owner believes do not comply with the provisions of this subchapter. The department shall make an inspection of the unit indicated in the complaint to be in violation of this subchapter.

When an inspection reveals that such unit is in violation of any provision of this subchapter, the department shall serve the seller, person responsible for violation, or their agents, a notification setting forth in what respect the provisions of this subchapter have been violated. Violations shall be corrected within 10 days or such longer time as may be allowed by the department, and an inspection shall be requested by the person served with the notification. The request for inspection shall be accompanied by a minimum one hour inspection fee in addition to fees required for the initial inspection pursuant to the complaint. Inspection fees shall be as specified in this Section 3061.

Should the violations not be corrected within the allotted time, the department may institute legal and/or administrative action as necessary to secure compliance.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19990 and 19991, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3056. Appeal and Hearing Procedures.

(a) Any person refused approval, receiving a notice of violation, or who feels aggrieved by application of this subchapter, may request and shall be granted an informal administrative hearing on the matter before the director of the department or his or her duly authorized representative. Such person shall file with the department a written petition requesting a hearing which sets forth a brief statement of the grounds therefor.

(b) Upon receipt of a petition, the department shall set a time and place for the hearing and shall give the petitioner at least 10 days written notice. The hearing shall commence no later than 30 days after the day on which the petition was filed except that, upon application or concurrence of the petitioner, the department may postpone the date of the hearing for a reasonable time beyond the 30–day period, if in its judgment the petitioner has submitted or the department has a good and sufficient reason for the postponement. Should petitioner fail to appear at the scheduled time and place of the hearing, the department may dismiss the petition without further action or take other action as may be appropriate.

(c) Upon conclusion of the hearing, the director of the department, or his or her duly authorized representative, shall notify the petitioner in writing of his or her decision in the matter and the reasons therefor, within 45 days.

NOTE: Authority cited: Sections 17003.5, 19995 and 19996, Health and Safety Code. Reference: Sections 19995 and 19996, Health and Safety Code.

HISTORY

1. New section filed 11–18–86; effective upon filing (Register 86, No. 47).

Article 4. Fees

§ 3060. Fees.

(a) Plan Fees.

(1) Plan Filing Fees.

(A) Sixty dollars ($60) for each new model.

(B) Twenty dollars ($20) for each individually submitted change to an approved plan.

(2) Plan Checking Fee Deposit.

(A) Three hundred dollars ($300) for each new model.

(B) One hundred fifty dollars ($150) for each building component model.

(C) The department may require a plan checking fee deposit not exceeding three hundred dollars ($300) for changes to approved plans. The plan checking fee deposit less actual costs as determined by the department shall be refundable.

(3) Plan Checking Fees. Two hundred three dollars ($203) provided the plan check does not exceed one hour. When the plan check exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: ninety–two dollars ($92).

(B) Each thirty (30) minutes, or fractional part thereof: forty–six dollars ($46).

(4) Plan Renewal Fee. Sixty dollars ($60) for plan renewal for each model.

(5) Plan Renewal Plan Checking Fees. Two hundred three dollars ($203) provided the plan renewal plan check does not exceed one hour. When the plan renewal plan check exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: ninety–two dollars ($92).

(B) Each thirty (30) minutes, or fractional part thereof: forty–six dollars ($46).

(b) Quality Control Manual. Twenty dollars ($20) for each individually submitted change to an approved quality control manual.

(c) Inspection and Technical Service Fees.

(1) One hundred ninety–six dollars ($196) provided the inspection, or technical service does not exceed one hour. When the inspection, monitoring, or technical services exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty–two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty–one dollars ($41).

(d) Out–of–State Inspection and Technical Service Fees. Fees shall be in accordance with subsection (c) plus total travel cost based on published air fare, or equivalent rate, between the point of departure in California and the point of inspection, plus necessary supplemental surface transportation, and reimbursement for food and lodging consistent with California State Department of Personnel Administration.

(e) Periodic Monitoring Inspection Fees. Periodic monitoring inspection fees shall be paid for inspection time and required travel time from the point of departure in California, in accordance with subsection (c). If reinspections are necessary as a result of a periodic monitoring inspection, the reinspection and travel time from the point of departure in California shall be paid in accordance with subsection (c). Out–of–state travel costs for periodic monitoring inspections and reinspections shall be paid in accordance with subsection (d).

(f) Insignia Fees.

(1) Sixty–two dollars ($62) for each insignia, excepting building components.

(2) Five dollars ($5) for each individual building component.

(3) Sixty–two dollars ($62) for replacement insignia.

(g) Reciprocal Insignia Fees.

(1) Insignia fees for units manufactured in California shall be as specified subsection (f).

(2) Two dollars ($2) for each single family dwelling unit, dwelling unit, individual dwelling room or combination of rooms thereof, shipped from another state under reciprocal agreement.

(3) Ten cents ($.10) for each individual building component.

(h) Out–of–State Approval Fee. Initial plant inspection fee shall be in accordance with subsection (c) and travel cost based on published air fare, or equivalent rate, between the point of departure in California and the location of the factory plus necessary supplemental surface transportation, and reimbursement for food and lodging consistent with California State Department of Personnel Administration.

(i) Change in Manufacturer Name, Ownership, or Address Fee. Sixty–two dollars ($62).

(j) Certification Fee—Quality–Assurance Agency. Three hundred twenty–eight dollars ($328) for each certification application.

(k) Quality Approval Agency Renewal. Two hundred eighty–six dollars ($286) for each renewal application.

(*l*) Certification Fee—Quality Assurance Inspector. Eight hundred sixty–six dollars ($866) for each person making request for certification.

(m) Quality Assurance Inspector Renewal. Two hundred fifty–three ($253) for each renewal application.

(n) Certification Fee—Design Approval Agency. Three hundred twenty–eight dollars ($328) for each certification application.

(o) Design Approval Agency Renewal. Two hundred eighty–six dollars ($286) for each renewal application.

(p) Design Approval Agency Monitoring Fee.

(1) Forty–two dollars ($42) for each approved plan or plan renewal.

(2) Nineteen dollars ($19) for each amendment to previously approved plans or manuals.

(3) Twenty dollars ($20) for each approved quality control manual.

(q) Alternate Approval. Two hundred three dollars ($203) provided the plan renewal plan check does not exceed one hour. When the plan renewal plan check exceeds one hour, the following fees shall apply:

(1) Second and subsequent whole hours: ninety–two dollars ($92).

(2) Each thirty (30) minutes, or fractional part thereof: forty–six dollars ($46).

(r) Alternate Approval Plan Review. Two hundred three dollars ($203) for each hour.

NOTE: Authority cited: Sections 19982 and 19990, Health and Safety Code. Reference: Sections 19982 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).
2. Amendment filed 5–3–90; operative 6–29–90 (Register 90, No. 30).
3. Amendment of section and NOTE filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 3061. Inspection Fees, Payment and Collection.

(a) Each manufacturer of factory–built housing having the department as its inspection agency shall submit in–plant inspection fees to the department pursuant to Section 3060. In–plant inspection fees are payable to the department, at the option of the manufacturer and/or department, in the following manner:

(1) Monthly, after billing by the department for in–plant inspection hours during the billing period, or,

(2) Advance hours during a monthly period.

(b) The department may require one or more of the following actions for the cause noted:

(1) Require that payments be made in the form of cashiers check drawn upon a bank or savings an loan as a result of failure to pay previous fees with good and sufficient funds.

(2) Discontinue in–plant inspection for failure to pay in–plant inspection fees or for failure to pay such fees with good and sufficient funds.

(3) Discontinue the issuance of labels or insignia for failure to pay in–plant inspection fees or for failure to pay such fees with good and sufficient funds.

(4) Reappropriate labels or insignia previously issued for failure to pay in–plant inspection fees or for failure to pay such fees with good and sufficient funds.

(c) Where manufacturers are subject to monthly billing for in–plant inspection fees, the department shall mail a statement to the manufacturer on either the 1st, 10th, or 20th day of the month. The statement shall set forth the amount due the department for in–plant inspection services during the billing period. The amount set forth in the statement shall be due and payable upon receipt and shall be past due if not received by the department on the 10th day after the statement date.

(d) The department, upon written notice from the manufacturer indicating that in–plant inspection will no longer be necessary and explaining the reasons therefore, shall within 60 days from receipt of such notice refund any credits due the manufacturer from advance deposits made in accordance with subsection (a)(2) of this section.

NOTE: Authority cited: Sections 17003.5, 19982 and 19990, Health and Safety Code. Reference: Sections 19982 and 19990, Health and Safety Code.

HISTORY

1. New section filed 11–18–86; effective upon filing (Register 86, No. 47).

Article 5. Design and Fabrication

§ 3070. Design and Fabrication.

The design and fabrication of factory–built housing shall be in accordance with the applicable building standards contained in Parts 2, 3, 4 and 5, Title 24, California Administrative Code.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Section 19990, Health and Safety Code.

§ 3071. New Concepts, Alternates and Equivalents.

(a) The provisions of this subchapter are not intended to prevent the use of any new concept, material, appliance, system, device, arrangement, or method of construction not specifically prescribed by this subchapter, provided any such alternate or equivalent has been approved.

(b) The department or design approval agency shall approve any such new concept, alternate or equivalent if it finds that the proposed design is satisfactory and that the material, appliance, device, arrangement, method, system of work offered complies with the intent of this subchapter.

(c) Whenever there is definite evidence that any material, appliance, device, arrangement, system or method of construction does not conform to subdivision (b), or in order to substantiate claims for new concepts, alternates, or equivalents, the department or design approval agency may require tests or proof of compliance to be made at the expense of the manufacturer or his agent. Such action and requirements shall be subject to

appeal an informal administrative appeal before the director or his or her designee pursuant to Section 3056.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3072. Calculations and Test Procedures.

(a) The load–carrying capacity of elements or assemblies shall be established by calculations in accordance with generally established principles of engineering design. However, when the composition or configuration of elements, assemblies or details of structural members are such that calculations of their safe load–carrying capacity and basic structural integrity cannot be accurately determined in accordance with generally established principles of engineering design, structural properties of such members or assemblies may be established by the results of tests acceptable to the department or design approval agency.

(b) When any structural design or method of construction is substantiated by calculations and supporting data, such calculations and supporting data shall be signed by a California licensed architect, or professional engineer and shall be submitted to the department or design approval agency as appropriate.

(c) When the design of factory–built housing is substantiated by calculations or tests, all structural plans shall be signed by the architect or engineer in responsible charge of the total design.

(d) When any design or method of construction is substantiated by tests, all such tests shall be performed by an approved testing agency acceptable to the department or design approval agency or shall be directed, witnessed and evaluated by an independent California licensed architect or professional engineer. All test procedures and results shall be reviewed, evaluated and signed by an independent California licensed architect or professional engineer. The approved testing agency, architect or professional engineer shall submit the evaluation of test results, calculations, and recommendations, accompanied by test reports from the laboratory, to the department or design approval agency. The department or design approval agency may require that its representative witness the test.

(e) The manufacturer shall indicate how the units are transported from the factory to the site and provide specific calculations and any other information necessary to substantiate the capability of the unit to resist transportation and installation stresses.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3073. Equipment and Systems.

(a) All equipment and systems shall be subject to the approval of the department or design approval agency and provisions of this subchapter. The department or design approval agency may accept for approval such equipment and systems which are listed or labeled by an approved testing or listing agency. Equipment and systems not listed or labeled may be accepted for approval by the department or design approval agency when it determines such equipment and systems are adequate for the protection of health, safety, and the general welfare and are consistent with the provisions of this subchapter.

(b) Equipment and systems may be disapproved when such equipment and systems, even though listed or labeled by an approved testing or listing agency, are not adequate for the protection of health, safety, and the general welfare and are not consistent with the provisions of this subchapter.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19983 and 19990, Health and Safety Code.

HISTORY

1. Amendment of Section 3073 and renumbering and amendment of former Section 3074 to Section 3073(b) filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3074. Department Disapproval of Listed or Labeled Equipment and Systems.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Section 19990, Health and Safety Code.

HISTORY

1. Renumbering and amendment of Section 3074 to Section 3073(b) filed 11–18–86; effective upon filing (Register 86, No. 47).

Article 6. Installation

§ 3080. Enforcement of Installation.

As set forth in Section 19992 of the Health and Safety Code, local enforcement agencies shall enforce and inspect the installation of factory–built housing.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19990 and 19992, Health and Safety Code.

§ 3081. Installation Plans.

(a) A manufacturer of factory–built housing having plan approval shall furnish a minimum of two complete sets of the approved factory–built housing plans to the installer, who shall submit at least one set to the local enforcement agency prior to installation. The approved plans will contain a resume of the installation work to be done on–site, and will indicate the location on the unit where the department insignia of approval can be found.

(b) Plans approved by the department or a design approval agency shall be accepted by the local enforcement agency as approved for the purpose of obtaining an installation permit when the design criteria are consistent with the requirements for the locality, as determined by the local enforcement agency.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19980, 19981, 19983, 19990 and 19993, Health and Safety Code.

HISTORY

1. Amendment filed 11–18–86; effective upon filing (Register 86, No. 47).

§ 3082. Modifications During Installation.

Pursuant to Section 19981(c) of the Health and Safety Code, no factory–built housing shall be in any way modified during installation unless approval for such modification is first obtained from the local enforcement agency.

NOTE: Authority cited: Sections 17003.5 and 19990, Health and Safety Code. Reference: Sections 19981 and 19990, Health and Safety Code.

Subchapter 2. Manufactured Homes, Mobilehomes, Multi–Unit Manufactured Housing, Commercial Modulars, and Special Purpose Commercial Modulars

Article 1. Administration

§ 4000. Authority for Chapter.

(a) This chapter is adopted pursuant to the provisions of Section 18020 of the Health and Safety Code in order to implement, interpret, and make specific and otherwise carry out the provisions of Division 13, Part 2 (commencing with 18000) of the Health and Safety Code relating to the manufacture, sale, offering for sale, rent or lease of mobile homes, commercial coaches and recreational vehicles.

Applicable provisions of the Health and Safety Code relating to mobile homes, recreational vehicles, and commercial coaches are reproduced in Appendix A of this subchapter for reference.

(b) Pursuant to the National Mobile Home Construction and Safety Standards Act of 1974 (Public Law 93–383) the department is authorized responsibility for administration and enforcement of Mobile Home Procedural and Enforcement Regulations and Construction and Safety Standards relating to any issue with respect to which a Federal standard (Title VI (24 C.F.R.) requirement) has been established.

The provisions of the Mobile Home Construction and Safety Standards Act, Title VI of the Housing and Community Development Act of 1974 (Public Law 93–383) are reproduced in Appendix B of this subchapter for reference.

(c) The Federal mobile home procedural and Enforcement Regulations and Mobile Home Construction and Safety Standards (Title VI, 24 C.F.R.) are reproduced in Article 2, division 2 and 3 of this subchapter for reference.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18000 et seq., Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18). For prior history see Registers 71, No. 13; 76, No. 25; 76 No. 31; 77, No. 24.
2. Amendment of subchapter 2 heading filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4002. Application and Scope.

(a) Pursuant to Sections 18000–18080.5 of the California Health and Safety Code, the provisions of this chapter relating to plumbing, heat–producing and electrical equipment and installations are applicable to all mobile homes, travel coaches, recreational vehicles, travel trailers and camp cars manufactured after September 1, 1958, all trailer coaches designed or used for industrial professional, or commercial purposes manufactured after May 25, 1967, which are sold, offered for sale, rent or lease within the State of California. The provisions of his chapter relating to construction and fire safety apply to mobile homes and commercial coaches manufactured after September 15, 1971, recreational vehicles manufactured after January 1, 1974, which are sold, offered for sale, rent or lease within the State of California. The provisions of this chapter are also applicable to the alteration or conversion of any construction or fire safety equipment or installations in mobile homes or commercial coaches manufactured after September 15, 1971, and the fire safety equipment and installations in recreational vehicles manufactured after January 1, 1974, when such vehicle bears or is required to bear a department insignia or HUD label. The provisions of this chapter are also applicable to the alteration or conversion of any plumbing, heat–producing or electrical equipment and installations in any such vehicle bearing, or required to bear, an insignia or HUD label.

(b) The regulations contained in Article 3.5 of this subchapter are applicable to special purpose commercial coaches that are manufactured after July 1, 1979.

NOTE: Authority cited: Section 18020; Health and Safety Code. Reference: Sections 18021, 18055, 18056.5, 18057, 18058, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18). For prior history, see Registers 73, No. 36; 75, No. 30; 75, No. 48; 76, No. 25; 76, No. 31 and 77, No. 24.

§ 4004. Definitions.

Definitions contained in the California Health and Safety Code, Division 13, Part 2, Chapter 1 (commencing with Section 18000) and the following shall govern this subchapter.

(a) Alteration. The conversion, replacement, addition, reconstruction, modification or removal of any equipment or installations which may affect the construction, fire safety, occupancy, plumbing, heat–producing or electrical system or the functioning thereof, of units subject to this subchapter.

(b) Camping Trailer. A recreational vehicle which is mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site.

(c) Ceiling Height. The clear vertical distance from the finished floor to the finished ceiling.

(d) Certification or Certified. The approval by the department or a Quality Assurance Agency, of a manufacturer to receive a supply of insignia and a reduced frequency of inspection, subsequent to the manufacturer demonstrating its quality control program which results in the production of units in compliance with applicable provisions of this Chapter.

(e) Construction. The same as "Manufacture."

(f) Design Approval Agency. A third–party entity approved by the department —

(1) to review and approve plans and quality control manuals relating to the manufacture of mobilehomes, multifamily manufactured homes, commercial coaches, special purpose commercial coaches and recreational vehicles, and

(2) to review and approve plans for the design and installation of fire sprinkler systems during the manufacture of either manufactured homes or multifamily manufactured homes with two dwelling units.

(g) Dormitory. A room occupied or intended to be occupied by more than two guests.

(h) Equipment. All materials, appliances, devices, fixtures, fittings or accessories used in the construction, fire safety, plumbing, heat–producing and electrical systems of units subject to this subchapter.

(i) Exit. A continuous and unobstructed means of egress to the exterior of the unit.

(j) Expandable Units. An enclosed room, semi–enclosed room, or roofed porch which expands outward from the basic unit by means of rollers, hinges, or other devices or arrangements, but is designed as a structural portion of the unit and is carried within the unit while traveling on the highway.

(k) Fire Safety. The conditions relating to the prevention of fire or for the protection of life and property against fire.

(*l*) Fire Sprinkler System. An integrated system of piping, connected to a water supply, with listed sprinklers that automatically initiate water discharge over a fire area.

(m) Flame Spread. The propagation of flame over a surface.

(n) Floor Area. The area included within the surrounding exterior walls of a unit or portion thereof, subject to these regulations.

(o) Guest Room. Any room or rooms used, or intended to be used by a guest for sleeping purposes. Every 100 square feet of superficial floor area in a dormitory shall be considered to be a guest room.

(p) Habitable Room. A room or enclosed floor space arranged for living, eating, food preparation, or sleeping purposes (not including bathrooms, toilet compartments, laundries, pantries, foyers, hallways, and other accessory floor spaces).

(q) HUD Label. A label issued to manufactured homes manufactured on or after June 15, 1976, indicating compliance with Federal Standards and Regulations of the U.S. Department of Housing and Urban Development, pursuant to Public Law 93–383 and 24 C.F.R.

(r) Insignia. A tab or tag issued by the department to indicate compliance, on the date of issue, with the requirements of this subchapter.

(s) Insignia Administrator. A person on the staff of a Quality Assurance Agency designated as responsible for the procurement and administration of insignia and the maintenance of insignia security.

(t) Insignia Security. A system designed for the safekeeping of insignia which accounts for the disposition of each insignia, which ensures the proper entry of information on the insignia in the case of a commercial coach, and which maintains restricted access to the insignia as necessary to eliminate the potential for loss, damage and misappropriation of the insignia.

(u) Installations. All arrangements and methods of construction, fire safety, plumbing, heat–producing and electrical systems used in units subject to this chapter.

(v) Interior Finish. The surface material of walls, fixed or movable partitions, ceilings and other exposed interior surfaces affixed to the unit's structure including any material such as paint or wallpaper and the substrate to which they are applied. Interior finish does not include windows and doors or their frames, skylight, trim, moldings, decorations or furnishings which are not affixed to the unit's structure.

(w) Labeled. Materials, products, or equipment bearing the inspection label of an approved listing agency.

(x) Length. The distance measured from the exterior of the front wall to the exterior of the rear wall of a unit where such walls enclose the living

or other interior space, including expandable rooms, but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments.

(y) Listed. Equipment, materials, products, or installations included in a list published by an approved listing agency. The listing agency conducts periodic inspections of the production of the listed equipment, materials, or products, and conducts periodic evaluations of the listed installations. The list means:

(1) that the listed equipment, material, product, or installation complies with the corresponding appropriate nationally recognized standard and is suitable for the specified purpose, or

(2) that the listed equipment, material, product, or installation has been tested, and found suitable for use in a specified manner.

(z) Listing Agency. An independent agency approved by the department, that is in the business of listing and labeling equipment, materials, products, or installations and that maintains a periodic inspection program on current production of listed equipment, materials, or products or periodic evaluations of listed installations. A listing agency makes available at least annually a published report of listings that includes specific information about the nationally recognized standard with which each item complies and the manner in which the item is safe for use, or information about a listed equipment, material, product, or installation that has been tested and found suitable for use in a specified manner.

(aa) Loads.

(1) Dead Load is the vertical load due to the weight of all permanent structural and nonstructural components of a unit such as walls, floors, and fixed service equipment.

(2) Live Load. The load superimposed by the use and occupancy of the unit not including the wind load, earthquake or dead load.

(3) Wind Load. The lateral or vertical pressure or uplift on the unit due to wind blowing in any direction.

(bb) Manufacture. The manufacture, fabrication, erection or building up of elements of a unit subject to this subchapter including, but not limited to, structural, fire and life safety, mechanical, plumbing and electrical materials and installations.

(cc) Manufactured Home. A structure as defined by section 18007 of the Health and Safety Code.

(dd) Mobile Food Preparation Unit. A special purpose commercial coach upon which food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution.

(ee) Mobilehome. A structure as defined by section 18008 of the Health and Safety Code.

(ff) Model. A manufactured home, mobilehome, commercial coach, special purpose commercial coach, recreational vehicle or multifamily manufactured home of a specific design designated by the manufacturer based on width, type of construction, or room configuration.

(gg) Motor Home. A recreational vehicle built on or permanently attached to a self–propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational, or emergency occupancy.

(hh) Multifamily Manufactured Home. A structure as defined by section 18008.7 of the Health and Safety Code. "Multi–unit manufactured housing" has the same meaning as "multifamily manufactured home", as that term is defined by section 18008.7 of the Health and Safety Code.

(ii) Occupancy. The designate purpose for which a unit or part thereof, is used or intended to be used.

(jj) Plan. A drawing or set of drawings pertaining to one design for a unit distinguished by size, room configuration or type of construction, or pertaining to one typical system to be used in production models.

(kk) Plan Approval. Relates to plans approved by the department or a Design Approval Agency as meeting the requirements of law and this subchapter —

(1) for the manufacture of mobilehomes, multifamily manufactured homes, commercial coaches, special purpose commercial coaches or recreational vehicles, and

(2) for the design and installation of fire sprinkler systems in manufactured homes and in multifamily manufactured homes with two dwelling units.

(*ll*) "Professional Engineer." A person engaged in professional practice as defined in Business and Professions Code Section 6701.

(mm) Prohibited Sales Notice. A printed notification issued by the department that the unit may not be offered for sale because of violations of the provisions of law or this subchapter.

(nn) Quality Assurance Agency. A third–party entity approved by the department to conduct inspections and monitor in–plant quality assurance programs to determine compliance with approved plans, quality control manuals and/or this subchapter —

(1) during the manufacture of mobilehomes, multifamily manufactured homes, commercial coaches, special purpose commercial coaches and recreational vehicles subject to this subchapter, and

(2) during the installation of a fire sprinkler system in a manufactured home or in multifamily manufactured home with two dwelling units.

(oo) Quality Assurance and Quality Control. When used in Health and Safety Code Sections 18013.2 and 18020 and this subchapter, shall mean the same.

(pp) Quality Assurance Inspector. A person approved by the department and employed by an approved Quality Assurance Agency to conduct inspections and monitor quality assurance programs pursuant to this subchapter.

(qq) Quality Control Manual. A manual developed by a manufacturer and approved by the department or a Design Approval Agency, which describes in detail a program of procedures, tests, and inspections to be performed by the manufacturer during the manufacturing process to assure that all materials, systems, equipment and assemblies of a mobilehome, multifamily manufactured home, commercial coach, special purpose commercial coach or recreational vehicle, comply with approved plans, the Health and Safety Code, Division 13, Part 2, and this subchapter.

(rr) Serial Number. An identification number assigned by the manufacturer for the purpose of distinguishing each individual unit.

(ss) Smoke Detector. An approved device which senses visible or invisible particles of combustion.

(tt) Supplier. A person or firm which manufactures or sells equipment, materials and goods used in the manufacture of mobilehomes, multifamily manufactured homes, commercial coaches, special purpose commercial coaches, and recreational vehicles.

(uu) Technical Service. Interpretation and clarification by the department of technical data relating to the application of this subchapter.

(vv) Testing Agency. An organization that:

(1) is in the business of testing materials, products, equipment or installations;

(2) is qualified and equipped for such experimental testing;

(3) is not under the jurisdiction or control of any manufacturer or supplier for any affected industry; and

(4) is approved by the department pursuant to Section 4006.

(ww) Travel Trailer. A recreational vehicle mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motor vehicle.

(xx) Typical Systems. A design for either a structural, fire–life safety, electrical, mechanical or plumbing system which is designed for use in more than one model.

(yy) Uniform Building Code (UBC). A building code published by the International Conference of Building Officials.

(zz) Unit. A manufactured home, mobilehome, multifamily manufactured home, commercial coach, special purpose commercial coach or recreational vehicle.

(aaa) Vehicle Identification Number (VIN). A serial number.

(bbb) Wall–Bearing. A wall which supports any superimposed load in excess of 100 pounds per lineal foot.

(ccc) Wall–Exterior. A wall or element of a wall which defines the exterior boundaries of a unit.

(ddd) Wall–Nonbearing. A wall which supports no load other than its own weight.

NOTE: Authority cited: Sections 18015, 18015.5, 18020, 18025, 18028, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18007, 18008, 18008.7, 18010, 18015, 18015.5, 18020, 18025, 18025.5, 18026, 18028, 18029, 18029.3, 18029.5, 18030 and 18031.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
4. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).
5. Amendment filed 2–11–82 as an emergency; effective upon filing (Register 82, No. 8). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–11–82.
6. Certificate of Compliance as to 2–11–82 order filed 6–8–82 (Register 82, No. 24).
7. Amendment of Section 4004 and renumbering and amendment consolidating former Sections 4352 and 4526 with Section 4004 filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
8. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
9. Amendment of Section 4004, and renumbering and amendment consolidating former Sections 4352 and 4526 with Section 4004 filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
10. Certificate of Compliance transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).
11. Amendment of section and NOTE filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).
12. Change without regulatory effect amending subsections (f)(1)–(2), adding subsections (cc), (ee) and (hh), relettering subsections, amending newly designated subsections (ff), (kk)(1)–(2), (nn)(1)–(2), (qq), (tt) and (zz) and amending NOTE filed 7–14–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 29).

§ 4005. Enforcement.

The department shall administer and enforce all the provisions of this chapter and the Federal Mobile Home Construction and Safety Standards, Title VI (24 C.F.R.). Any officer, agent or employee of the department is authorized to enter any premises where vehicles are manufactured, sold, offered for sale, rent or lease. He may examine any records and may inspect any vehicles, equipment or installations to ensure compliance with the provisions of this chapter and the Federal Mobile Home Construction and Safety Standards, Title VI (24 C.F.R.). When it becomes necessary to determine compliance he may require that a portion or portions of such vehicles be removed or exposed in order that an inspection or required tests be made to determine compliance.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6–15–76 as an emergency; effective upon filing (Register 76, No. 25).
3. Certificate of Compliance filed 7–29–76 (Register 76, No. 31).

§ 4006. Equipment and Installations.

(a) All equipment and installations in the construction, fire safety, plumbing, heat–producing and electrical systems of vehicles shall be subject to the approval of the department and the provisions of this chapter. The department may accept for approval such equipment and installations which are listed and labeled by an approved testing or listing agency. Equipment and installations not listed and labeled may be accepted for approval by the department when it determines such equipment and installations are adequate for the protection of health, safety and the general welfare.

(b) Existing equipment and installations may be accepted for approval by the department provided such equipment and installations do not present a hazard to the health and safety of the occupants of a vehicle and the public.

(c) The following information and criteria will be required by the department in considering acceptance of approved listing and testing agencies.

(1) Names of agents or officers and location of offices.

(2) Specification and description of services proposed to be furnished under these Rules and Regulations.

(3) Description of qualifications of personnel and their responsibilities.

(4) Summary of organizational experience.

(5) General description of procedures and facilities to be used in proposed services, including evaluation of the product, factory follow–up, quality assurance, labeling of production units, and specific information to be furnished with the listing.

(6) How defective units resulting from oversight are to be dealt with.

(7) Proof of independence and absence of conflict of interest.

(8) A published directory including product manufacturer and product information.

(d) The following information and criteria will be required by the department in considering acceptance of independent engineers qualifying under Section 4019.

(1) Names of agents or officers and location of offices.

(2) Specification and description of services proposed to be furnished under these Rules and Regulations.

(3) Description of qualifications of personnel and their responsibilities.

(4) Summary of organizational experience.

(5) How defective units resulting from oversight are to be dealt with.

(6) Proof of independence and absence of conflict of interest.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).

§ 4007. Department Disapproval of Listed or Labeled Equipment and Installations.

Equipment and installations may be disapproved by the department when it determines that such equipment and installations, even though listed and labeled by an approved testing and listing agency, are not adequate for the protection of health, safety and the general welfare.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18001, 18020, 18022, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4008. Approval of Alternates and Equivalents.

Any construction, equipment or installations may be submitted to the department for approval as an alternate or equivalent pursuant to Section 18016 of the California Health and Safety Code.

Requests for approval of alternates and equivalents shall be submitted to the department on Form HCD 415, dated August, 1983 supplied by the department together with an alternate approval fee and the plan check fee for a minimum of one (1) hour as specified in Section 4044 of this chapter and three sets of substantiating plans and information. If the plan checking exceeds one (1) hour the balance due shall be paid prior to the issuance of the department approval.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18016, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 10–12–89; operative 10–12–89 (Register 89, No. 41).

§ 4009. Manufacturer's Approval.

(a) Every manufacturer of vehicles subject to requirements of this chapter shall obtain approval and insignia for each vehicle by requesting an inspection pursuant to Sections 4010 and 4011 or by the plan approval method pursuant to Sections 4015–4026. Where insignia are obtained pursuant to the plan approval method, those vehicles for which plan approval insignia have been issued shall be manufactured in accordance with approved plans.

(b) Every manufacturer of mobile homes subject to the requirements of Title VI (24 C.F.R.) shall obtain approval and labels for each mobile home manufactured on or after June 15, 1976, pursuant to Sections 4010.5 and 4015.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment filed 6–15–76 as an emergency; effective upon filing (Register 76, No. 25).
4. Certificate of Compliance filed 7–29–76 (Register 76, No. 31).

§ 4010. Required Inspection.

Any person selling, offering for sale, renting, leasing, altering or converting any mobile home, trailer coach, recreational vehicle travel trailer or camp car, manufactured after September 1, 1958, any trailer coach or commercial coach designed or used for industrial, commercial or professional purposes, manufactured after May 25, 1967, shall request an inspection by the department under any of the following conditions:

(a) If the vehicle does not bear a department insignia or HUD label.

(b) When the vehicle bearing or required to bear a department insignia or HUD label is to be altered or converted.

(c) Where a notice requiring corrections has been given and a reinspection is necessary to determine compliance.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18020, 18055.5, 18056, 18056.1, 18057, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4010.5. Monitoring Inspection Fees.

(a) When the department conducts inspections of the production of manufactured homes, mobile homes, commercial coaches, or special purpose commercial coaches subject to this subchapter, the manufacturer shall submit in–plant monitoring fees to the department pursuant to Section 4044. In–plant monitoring fees are payable to the department, at the option of the manufacturer and/or department, in the following manner:

(1) Monthly, after billing by the department for in–plant monitoring hours during the billing period, or,

(2) Advance deposit with the department by manufacturers for in–plant monitoring hours during a monthly period.

(b) The department may for cause:

(1) Require that payments be made in the form of cashiers check drawn upon a recognized bank.

(2) Discontinue in–plant monitoring for failure to pay in–plant monitoring fees or for failure to pay such fees with good and sufficient funds.

(3) Discontinue the issuance of labels or insignia for failure to pay in–plant monitoring fees or for failure to pay such fees with good and sufficient funds.

(4) Reappropriate labels or insignia previously issued for failure to pay in–plant monitoring fees or for failure to pay such fees with good and sufficient funds.

(c) Where manufacturers are subject to monthly billing for in–plant monitoring fees a statement shall be mailed to the manufacturer on either the 1st, 10th, or 20th day of the month. The statement shall set forth the amount due the department for in–plant monitoring services during the billing period. The amount set forth in the statement shall be due and payable upon receipt and shall be past due if not received by the department on the 10th day after the statement date.

(d) The department, upon written notice from the manufacturer indicating that in–plant monitoring will no longer be necessary and explaining the reasons therefore, shall within 60 days from receipt of such notice refund any credits due the manufacturer from advance deposits made in accordance with subsection (a) (2) of this section.

(e) The department shall charge manufacturers Technical Service Fees in accordance with Section 4044 for the actual time spent in processing checks or drafts which can not readily be converted to good and sufficient funds.

(f) When the enforcement of this chapter has been delegated to third–party entities, monitoring fees shall not be charged a manufacturer for department inspections conducted to evaluate the performance of a third–party entity.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18020 and 18031, Health and Safety Code.

HISTORY

1. New section filed 6–15–76 as an emergency; effective upon filing (Register 76, No. 25).
2. Certificate of Compliance filed 7–29–76 (Register 76, No. 31).
3. Amendment of NOTE filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
4. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).
5. Amendment of subsection (a) and new subsection (f) filed 10–12–89; operative 10–12–89 (Register 89, No. 41).

§ 4011. Inspection Approval.

(a) Any person manufacturing, owning, selling, offering for sale, renting, leasing, altering or converting any vehicle may request the department to make an inspection of such vehicle for approval pursuant to this chapter.

(b) Request for inspection shall be made in writing to the department at least five working days prior to the desired date of inspection and shall indicate the date upon which the inspection is to be made, the location, make, model, serial number of the vehicle, and the serial number of the department insignia or HUD label affixed to the vehicle, if any, and be accompanied by the minimum inspection fees pursuant to Section 4044 of this subchapter. All additional inspection fees are payable upon completion of each inspection. Written requests shall be submitted to the appropriate department office.

Where the vehicle is not available or ready for inspection at the location indicated on the request, a one hour inspection fee shall be charged.

(c) The department may require plans, specifications, calculations or test results pursuant to Sections 4015, 4016, 4017 and 4019 of this chapter.

(d) Where it is necessary to determine compliance with the regulations the department may require inspections prior and subsequent to completion of construction.

(e) Where a manufacturer requests an inspection of a mobile home or commercial coach under construction he shall have an approved structural plan on file with the department for the structural system, pursuant to Section 4015.

(f) Where a person proposes to sell, offer for sale, rent or lease a mobile home manufactured after September 15, 1971, and before June 15, 1976, or commercial coach manufactured after September 15, 1971, for which an insignia of approval has not been issued, it will be necessary for such person to supply the division with written certification by a California licensed architect or professional engineer stating that the vehicle has been inspected and the structural system of the vehicle is constructed in accordance with the regulations. The division will make an inspection of the fire safety, exits, ceiling heights, room and hallway sizes, light and ventilation, safety glass, electrical, mechanical and plumbing equipment and installations in order to determine compliance with the regulations.

The applicant shall also furnish written certification to the division that the vehicle or structure is designed to comply with Section 4049.3 (a)(21),(22),(23) and (24) or Section 4369.5 of this subchapter.

(g) Pursuant to Sections 4021 and 4021.5 out–of–state manufacturers shall request an inspection to be made at the manufacturer's plant while the vehicle(s) is under construction and at a stage where it is possible to inspect structural components such as roof trusses, wall and floor assemblies and rough–in for electrical, mechanical and plumbing systems.

If it is no possible, after inspection, to approve the vehicle(s) it will be necessary for the manufacturer to request a reinspection to be made at the manufacturer's plant.

Requests for out–of–state inspections shall be submitted, in writing, together with the out–of–state inspection fees pursuant to Section 4044, to the Sacramento, California office at least 10 working days prior to the

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desired date of inspection and shall indicate the date upon which the inspection is to be made, the location, type of vehicle, model and serial number.

(h) California insignia of approval will not be issued until the Department can effectively determine, that the manufacturer's assembly, quality-control procedures and vehicles produced for sale in California comply with the California regulations. The department shall make inspections of vehicles under construction at the manufacturer's facilities to determine compliance.

(i) Where any person has made an application for an inspection and paid the required fees, such person shall request the inspection within 90 days after making such application or the application shall be voided and fees forfeited.

NOTE: Authority cited: Sections 17003.5 and 18015, Health and Safety Code. Reference: Sections 18025, 18028, 18029.5 and 18031.5, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
3. Amendment o subsections (b), (f) and (g) filed 4-4-79; effective thirtieth day thereafter (Register 79, No. 18).
4. Amendment of subsection (f) filed 7-28-82 as an emergency; effective upon filing (Register 82, No. 31). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-25-82.
5. Certificate of Compliance including editorial correction of NOTE filed 11-19-82 (Register 82, No. 47).

§ 4011.5. Prototypes, General.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18020, 18055 and 18056.5, Health and Safety Code.

HISTORY

1. New section filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 5-4-79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4012. Action After Requested Inspection.

After a requested or required inspection pursuant to Sections 4010 and 4011 of this subchapter, if the vehicle inspected meets the requirements of this subchapter and the applicant submits insignia fees pursuant to Section 4044, an insignia shall be issued for such vehicle.

NOTE: Authority cited: Section 18020, Health & Safety Code. Reference: Sections 18020, 18055.5, 18056, 18056.1, Health & Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 5-4-79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4013. Notice of Violations.

When an inspection reveals that a vehicle bearing, or required to bear, a department insignia, is in violation of any provisions of this subchapter, the department shall serve upon the owner, person responsible for violation, or their agents, a Notice of Violations setting forth in what respect the provisions of this chapter have been violated. The department may also post the vehicle with a Prohibited Sales Notice. Violations shall be corrected within 20 days or such other period of time as may be allowed by the department, and an inspection shall be requested by the person served with the Notice of Violations. Should the violations not be corrected within the allotted time, the department shall institute legal and/or administrative actions as necessary to secure compliance and may reappropriate the department's insignia.

Any person served with a Notice of Violations shall, within 20 days of receipt, notify the department in writing of the action taken to correct the violations, and may file a request for a hearing pursuant to Section 4045 of this subchapter. No person served with a Notice of Violations shall move or cause to be moved said vehicle until the department has been furnished written notification of its destination and disposition. No person shall remove or cause to be removed a Prohibited Sales Notice until so authorized by the department.

NOTE: Authority cited: Section 18020, Health & Safety Code. Reference: Sections 18055.5, 18056.1, 18080, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
3. Amendment filed 5-4-79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4013.5. Complaint Investigation.

Any owner of a vehicle bearing, or required to bear, a department insignia or HUD label may file a written complaint with the department setting forth the items which the owner believes do not comply with the provisions of this subchapter.

(a) Upon receipt of a complaint indicating the possible existence of a violation of this subchapter, the department shall forward a copy of the complaint or other information to the manufacturer, seller, or person responsible for violations, or their agents.

(b) Any person served with a complaint or other information shall, as soon as possible, but not later than 20 days after receipt of the complaint or other information, make an investigation, any necessary inspections and determine if there are violations of this subchapter for which the person served is responsible.

Where the person served with a complaint or other information determines responsibility for correcting the violations, such person shall notify the department in writing of the action proposed to correct the violations. Violations shall be corrected within 20 days or such other time specified by the department.

Upon request the department may grant an extension of time for correction of violations.

(c) Where the person served with a complaint or other information fails to take action within the specified time the department may make an inspection of the unit(s) and may institute legal and/or administrative action as necessary to secure compliance with this subchapter.

(d) Where a reinspection is required to determine compliance with any order requiring corrective action, the person responsible for taking the corrective action shall request inspection(s) pursuant to Section 4010 and submit fees for such inspection(s) pursuant to Section 4044.

(e) Where the department determines that an imminent safety hazard or serious defect may exist the department shall notify the manufacturer, seller or person responsible for the violation(s) and may require that immediate action be taken by the responsible person to correct such violations. The department may make necessary inspections to determine if violations exist and to secure compliance.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055, 18055.5, 18056.1 and 18060, Health and Safety Code.

HISTORY

1. Amendment filed 5-4-79; effective thirtieth day thereafter (Register 79, No. 18). For prior history, see Registers 74, No. 9; 74, No. 21; 74, No. 49; 75, No. 3; 75, No. 30 and 77, No. 24.

§ 4014. Technical Service.

Any person may request technical service. Requests for such service shall be submitted to the department in writing and accompanied by the technical service fee specified in Section 4044. Requests for out-of-state technical service shall also include the requested out-of-state technical service fees specified in Section 4044. Fees shall be submitted by a cashier's check, money order, personal or company check, payable to the Department of Housing and Community Development.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
3. Amendment filed 5-4-79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4015. Plan or Design Approval.

(a) Design Approval Required. Manufacturers of mobile homes subject to Title VI (24 C.F.R.) requirements shall obtain approval of their designs pursuant to:

1. Design (plan) approval by the department pursuant to Sections 4015–4026, as applicable, and the applicable requirements of Title VI (24 C.F.R.). (See Article 2 for Title VI (24 C.F.R.) requirements) or

2. Design approval by a Design Approval Primary Inspection Agency (DAPIA) approved by the United States Department of Housing and Urban Development (HUD) as meeting Title VI (24 C.F.R.) requirements.

(b) Application for Structural System Approval. All manufacturers of mobile homes using the department for DAPIA services and commercial coaches subject to structural regulations which are to be sold, offered for sale, rented, or leased in California shall make application to the Southern California Office of the department for a typical structural design approval prior to construction, which may be referenced on subsequent plans submitted pursuant to Section 4017.

(1) General Requirements.

(A) Dimensioned drawings and specifications which clearly indicate the nature and extent of the work proposed.

(B) Two copies of all documents submitted for approval shall be on substantial paper or cloth, not less than 8 1/2 x 11 inches or multiples thereof but not exceeding 25 1/2 x 36 inches.

(C) An application on forms supplied by the department.

(D) Plan filing fees as required by Section 4044 for each system or plan.

(E) Plan checking fees as required by Section 4044. A minimum plan checking fee shall accompany all plans and specifications.

(2) Specific Requirements.

(A) All necessary cross sections.

(B) Floor, wall, ceiling and roof construction details.

(C) Typical connections.

(D) Design live and wind loads.

(E) Grade or quality of materials including fire protection.

(F) List of all applicable approvals.

(G) Substantiating calculations or test results, where required.

(H) Plans and calculations signed by a California licensed architect or professional engineer as required by Section 4019.

NOTE: The letter "S" shall be used on plans to designate typical structural systems.

(c) When it becomes necessary to resubmit plans to the department for checking an hourly resubmission fee rate shall be charged pursuant to Section 4044(a)(3). A minimum resubmission fee shall accompany all plans and specifications.

(d) mobile home manufacturers shall either include structural, electrical, mechanical, or plumbing requirements in their basic design or make application for systems approval pursuant to this section and Section 4016.

NOTE: Authority cited: Section 18020, Health & Safety Code. Reference: Section 18056.5, 18060, Health & Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18). For prior history, see Registers 73, No. 36; 75, No. 30; 76, No. 25; 76, No. 31 and 77, No. 24.

§ 4015.5. Prototypes General.

Regardless of the provisions of these regulations, a manufacturer may build, prior to obtaining an approved structural plan, one (1) prototype of each model he proposes to manufacture provided:

(a) The manufacturer informs the department in writing that he proposes to build a prototype, submitting the proposed unit serial number and a complete description of his proposal.

(b) If acceptable to the department, he will receive written approval to build said prototype.

(c) Requests for inspection shall be made to the department pursuant to Sections 4010 and 4011.

(d) Appropriate fees shall accompany requests for inspection pursuant to Section 4044.

(e) Prior to the issuing or affixing of a department insignia or HUD label to a completed prototype, the manufacturer shall have plan and/or design approvals for the as built structural system, including an approved floor plan, available at the facility for review. The departments inspection report authorizing the issuance or affixing of a department insignia or HUD label to a completed prototype shall indicate that approved structural and floor plans have been obtained, compared to the as built prototype, and are on file at the facility.

NOTE: Authority cited: Section 18020, Health & Safety Code. Reference: Section 18056.5, 18060, Health & Safety Code.

HISTORY

1. New section filed 5–4–79; effective thirtieth day after filing (Register 79, No. 18).

§ 4016. Application for Electrical, Mechanical and Plumbing System Approval.

A manufacturer of vehicles may make application to the Southern California office of the department for approval of typical equipment and installations prior to construction, which may be referenced on subsequent plans submitted pursuant to Section 4017.

(a) General Requirements.

(1) Dimensioned drawings and specifications which clearly indicate the nature and extent of the work proposed.

(2) Two copies of all documents submitted for approval shall be on substantial paper or cloth, not less than 8 1/2 x 11 inches or multiples thereof but not exceeding 25 1/2 x 36 inches.

(3) An application on forms supplied by the department.

(4) Plan filing fees as required by Section 4044 for each system or plan.

(5) Plan checking fees as required by Section 4044. A minimum plan checking fee shall accompany all plans and specifications.

NOTE: The following letters shall be used on plans to designate typical systems: Electrical—"E"; Mechanical—"M"; and Plumbing—"P".

(b) When it becomes necessary to resubmit plans to the department for checking a plan resubmission fee rate shall be charged pursuant to Section 4044. A minimum resubmission fee shall accompany all plans and specifications.

(c) Electrical. Complete electrical specifications:

(1) Type and size of feeder assembly.

(2) Voltage and amperage of branch circuit panelboard.

(3) Branch circuit identification, amperage of overcurrent protection device, wire size and type.

(4) Voltage and amperage of fixed appliances.

(5) Calculations.

(6) When designated for low voltage systems, a complete schematic of the electrical system, including wire sizes, overcurrent protection, and equipment ratings shall be made.

(7) Type and rating of generators and switching equipment.

(d) Mechanical. Plan may be to scale or schematic, and must show:

(1) Description of all materials, appliances, fittings, pipe tubing, vents and ducts.

(2) Btuh input rating of all fuel–burning appliances.

(3) Size of openings for combustion air except where an integral part of an approved appliance.

(4) Type(s) of fuel.

(5) Diameter and type of pipe and tubing, including method of calculating the system.

(6) Size and location of liquid fuel tanks and LPG cylinders.

(7) Size, location and construction of fuel storage compartments.

(8) Vertical clearances between range burners and combustible materials and methods of protection where required.

(9) Size, length, type and location of vents and vent connectors.

(10) Type, size and material of air ducts.

(11) Minimum free area and location of circulating air supply inlet.

(12) Minimum size and location of all conditioned and return air openings.

(13) Certification that heating facilities for mobile homes comply with Title VI (24 C.F.R.) requirements.

(e) Plumbing. Plan may be to scale or schematic, and must show:

(1) Description of all materials, fixtures, fittings, pipe, tubing, shower stalls and walls.

(2) Diameter and type of pipe and tubing, length of three–eighths inch O.D. tubing, and all trap arms.

(3) Size and type of fittings.

(4) Grade of drainage piping.

(5) Method of securing all piping.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055, 18056.5, 18060, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18). For prior history, see Registers 73, No. 36, 75, No. 30, 76, No. 25 and 76, No. 31.

§ 4017. Application for Model Plan Approval.

Any manufacturer of vehicles may make application to the department for plan approval of a model or model group prior to construction. The application shall be made to the Southern California office of the department and shall include:

(a) An application on forms supplied by the department.

(b) Plan filing fees, as required by Section 4044, for each model plan.

(c) Plan checking fees as required by Section 4044. A minimum plan checking fee shall accompany all plans and specifications.

(d) Quality control manual as outlined in Sections 4018 and 4025 unless previously filed with and approved by the department.

(e) When required, substantiating calculations or test results, indicating details of construction, plumbing, mechanical and electrical equipment and installations for each model or model group or approved system designations pursuant to Sections 4015 and 4016.

(f) Mobile homes and Commercial Coaches. General Requirements. Two copies of complete plans and specifications shall be on substantial paper or cloth not less than 8 1/2 x 11 inches or multiples thereof, but not exceeding 25 1/2 x 36 inches.

(g) Specific Requirements.

(1) A dimensioned floor plan(s).

(2) Proposed use of rooms and method of ventilation.

(3) Size, type and location of windows and exterior doors.

(4) Location of all appliances and fixtures.

(5) Location of plumbing drain, water, gas and electrical connections.

(6) Location of all electrical outlets (receptacle and lights).

(7) Number of outlets and appliances on each circuit and circuit rating.

(8) Occupancy classification for commercial coaches pursuant to the Uniform Building Code, 1976 edition or designation of occupancy group SPCC (Special purpose commercial coach) for vehicles subject to Article 3.5 of this subchapter.

(9) Type and location of fire warning equipment.

(h) Recreational Vehicles. General Requirements. Two copies of complete plans and specifications shall be on substantial paper or cloth not less than 8 1/2 x 11 inches or multiples thereof, but not exceeding 25 1/2 x 36 inches.

(i) Specific Requirements. Two copies of complete plans and specifications for recreational vehicles.

(1) A dimensioned floor plan(s).

(2) Location of all appliances and fixtures.

(3) Location of plumbing drain, water, gas and electrical connections.

(4) Location of all electrical outlets (receptacle and lights).

(5) Number of outlets and appliances on each circuit and circuit rating.

(6) Flamespread classification of interior finish materials.

(7) Type and location of exits.

(j) When it becomes necessary to resubmit plans to the department for checking a plan resubmission fee shall be charged pursuant to Section 4044. A minimum resubmission fee shall accompany all plans and specifications.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055, 18056.5, 18060, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4018. Application for In–Plant Quality Control Manual Approval.

A manufacturer of vehicles shall make application to the Southern California office of the department for an in–plant quality control manual approval. The submittal shall contain at least the following:

(a) An outline of the procedure which will direct the manufacturer to construct vehicles in accordance with the approved plans, as per Section 4025.

(b) Two copies of all documents submitted for approval shall be on substantial paper or cloth, 8 1/2 x 11 inches.

(c) An application on forms supplied by the department.

(d) Quality control manual filing and plan checking fee as required by Section 4044.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, 18060, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment of subsection (d) filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4019. Calculations and Test Procedures.

(a) The load bearing capacity of elements or assemblies may be established either by specifications or calculations in accordance with generally established principles of engineering design, or by tests acceptable to the department. When the composition or configuration of elements, assemblies or details of structural members are such that calculations of their safe load–carrying capacity and basic structural integrity cannot be accurately determined in accordance with generally established principles of engineering design, structural properties of such members or assemblies may be established by the results of tests acceptable to the department.

(b) When any structural design or method of construction is substantiated by calculations and supporting data such calculations and supporting data shall be signed by a California licensed architect, or professional engineer and shall be submitted to the department.

(c) When any structural design or method of construction is substantiated by tests, all such tests shall be performed by an approved testing agency acceptable to the department or shall be directed, witnessed and evaluated by an independent California licensed architect or professional engineer. All test procedures and results shall be reviewed and evaluated by a California licensed architect or professional engineer. The approved testing agency, architect or professional engineer shall submit the evaluation of test results, calculations and recommendations, accompanied by test reports from the laboratory, to the Southern California office of the Division of Codes and Standards. The department may require that a representative of the division witness the test.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section the department, in the capacity of a Title VI (24 C.F.R.) approved Design Primary Inspection Agency (DAPIA) may accept calculations and test results submitted by other than a California licensed architect or professional engineer providing such calculations or test results are found acceptable to the department upon review.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. New subsection (d) filed 6–15–76, as an emergency; effective upon filing (Register 76, No. 25).
3. Certificate of Compliance filed 7–29–76 (Register 76, No. 31).

§ 4020. Recreational Vehicle or Commercial Coach Model Manufactured at More Than One Location.

(a) If the manufacturer plans to produce the same model at more than one location, approval may be obtained at the time of filing (Sections 4015, 4016, 4017 and 4018), subject to submission of the following:

(1) One set of application forms for plan approval for each location of manufacture and fees pursuant to Section 4044.

(2) One additional set of identical plans and quality control manual for each location of manufacture (duplicate approved plans and quality control manuals may be used for the additional locations).

(b) If, subsequent to plan approval, the manufacturer wishes to produce the same model at additional locations of manufacture, it will be necessary to submit the following:

(1) One set of application forms for plan approval for each location of manufacture and fees pursuant to Section 4044.

(2) One additional set of identical approved plans and quality control manuals for each location of manufacture (duplicate approved plans and quality control manuals may be used for the additional locations).

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18056.5, 18060, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4021. Out–of–State Applicant—Recreational Vehicles.

Where the applicant is an out–of–state recreational vehicle manufacturer, the application for plan approval shall include a signed statement that the manufacturer agrees to:

(a) Apply for an insignia for each vehicle to be sold, offered for sale, rent or lease in California.

(b) Affix insignia to only those vehicles that are to be sold, offered for sale, rent or lease in California.

(c) Submit to the department, and maintain current, a list of the names and addresses of all California distributors and dealers.

(d) Provide the department annually with the total number of recreational vehicles shipped into California.

(e) Inspection for manufacturing plant and quality control certification or recertification.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18021, 18055, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18). For prior history, see Registers 73, No. 36; 75, No. 30; 76, No. 25 and 76, No. 31.

§ 4021.5. Out–of–State Manufacturer—Commercial Coaches.

Where the applicant is an out–of–state commercial coach manufacturer, the application for plan approval shall include a signed statement that the manufacturer agrees to:

(a) In–plant inspection.

(b) Apply for an insignia for each vehicle to be sold, offered for sale, rent or lease in California.

(c) Affix insignia to only those vehicles that are to be sold, offered for sale, rent or lease in California.

(d) Submit to the department, and maintain current, a list of the names and addresses of all California distributors and dealers.

(e) Request inspection, by the department of any commercial coach under construction that is to be shipped to California.

(f) Requested out–of–state inspection fees pursuant to Section 4044 of this subchapter.

(g) Provide the department annually with the total number of commercial coaches shipped into California.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18021, 18056.5, Health and Safety Code.

HISTORY

1. New section filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4022. Non–Conforming Application and Plans.

Should the application and plans not conform with this chapter, the applicant shall be so notified in writing by the department within ten working days of the date they are received. Should the applicant fail to submit completely corrected application and plans in accordance with the information supplied on the plan correction notice within 90 days of such notice, the application will be deemed abandoned and all fees submitted will be forfeited to the department. Additional submissions shall be processed as new applications.

§ 4023. Evidence of Approval.

Approved plans, specifications and quality control manual shall be evidenced by a stamp of approval of the department or an approved Title VI (24 C.F.R.) DAPIA, as applicable. An approved copy of the plans, specifications and quality control manual shall be returned to the manufacturer. An approved copy of plans, specifications and quality control manual shall be retained at each place of manufacture.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6–15–76 as an emergency; effective upon filing (Register 76, No. 25).
3. Certificate of Compliance filed 7–29–76 (Register 76, No. 31).

§ 4024. Plan Approval Expiration—Recreational Vehicles and Commercial Coaches.

(a) Model Plan Approvals. Plan approvals shall expire 15 months from the date of department approval. Plans may be renewed prior to the expiration date by submission of an application for plan approval renewal form obtainable from the department. Application for plan approval renewal shall be submitted in duplicate together with the appropriate plan renewal fees pursuant to Section 4044 of this subchapter. Plan approval renewal is permitted only when the plans for the designated model are identical to those on file with the department. A change of model name or designation is permitted on a renewal of approval. After expiration date, application for renewal of approval of any such expired plan approvals shall be submitted and processed as for a new plan approval. Insignia not assigned to a vehicle under construction prior to the expiration of plan approval are void and shall be returned to the department.

(b) System Plan Approvals. System plan approvals, on file with the department, shall expire 15 months from the date of department approval. System plans may be renewed prior to the expiration date by written application to the department. The written application shall contain a listing of the valid system(s) plan approvals the manufacturer wishes to maintain as current and a plan renewal fee pursuant to Section 4044. Where system plan approvals contain supplements, the supplements shall be incorporated into a single revised plan and filed with plan filing and supplement fees pursuant to Section 4044. When renewal involves changes from original approval, plan resubmission fees shall be charged pursuant to Section 4044.

(c) Title VI (24 C.F.R.) Design Approvals. Plans, designs, calculations, specifications, and quality control manuals approved pursuant to Title VI (24 C.F.R.) are subject to those requirements for expiration. (See Federal Mobile Home Procedural and Enforcement Regulations, Title VI, 24 C.F.R., Part 3282)

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055, 18055.5, 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18). For prior history, see Registers 73, No. 36, 75, No. 30, 76, No. 25 and 76, No. 31.

§ 4025. In–Plant Quality Control.

(a) The manufacturer shall submit a manual, or shall reference an applicable manual previously approved by the department, outlining a program of quality control concurrent with his request for plan approval. The program outlined must meet the standards of and be approved by the department. In addition, the manufacturer shall designate a company or corporate officer or other responsible person to be responsible for the quality control program and shall maintain records to substantiate that each unit has been inspected and complies with the plans as approved by the department.

(b) Specific Requirements for Manual for Mobile Homes, Commercial Coaches and Recreational Vehicles:

(1) Scope and purpose of manual.
(2) Receiving inspection procedure for basic materials.
(3) Material storage and stock rotation procedure.
(4) Drawings and bills of material.
(5) Types and frequency of product inspection.
(6) Sample of inspectional control form used.
(7) Record–keeping procedures for quality control forms.
(8) List of major pieces of production equipment.
(9) Responsibility for quality control program.
(10) Test procedural manual, including electrical, gas line, water systems and drain/vent/plumbing fixture tests and type of test equipment used.
(11) List of test equipment.

(c) The manufacturer shall provide a control card or other approved documents with each vehicle on the assembly line. The card or other approved documents shall identify the structural, electrical, mechanical and plumbing system in the vehicle and the vehicle identification number (VIN).

(d) The department shall make inspections of both vehicles under construction and of completed vehicles. The issuance of insignia shall be conditioned to compliance with the regulations as indicated by these inspections.

(e) Where either vehicles under construction or completed vehicles are found to be in violation during inspection and such violations are not corrected at the time of inspection, the department shall serve upon the manufacturer a Notice of Violations as prescribed in Section 4013. A reinspection shall be requested by a manufacturer served with Notice of Violations pursuant to Sections 4010 and 4011.

(f) The quality control manual and procedure requirements of Title VI (24 C.F.R.) are applicable to mobile homes manufactured after June 15, 1976. (See Federal Mobile Home Procedural and Enforcement Regulations, Title VI, 24 C.F.R., Part 3282.)

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055, 18055.5, 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18). For prior history, see Registers 73, No. 36, 75, No. 30, 76, No. 25, and 76, No. 31.

§ 4026. Changes to Approved Plans.

(a) Where the manufacturer proposes changes in the construction, fire safety, occupancy, plumbing, heat–producing, or electrical equipment or installations, or the department's regulations are amended to necessitate such change, two sets of supplemental detailed plans and specifications of such changes shall be submitted to the department for plan checking and comparison. Plans shall be accompanied by Transmittal of Supplementary Plan Application form, obtainable from the department, plan filing and plan checking fees pursuant to Section 4044 of this subchapter. If the department determines that such supplemental details do not constitute a new model, or system, the supplement will be filed with and become a part of the existing plan approval. Where the supplemental details constitute a new model or system, the application for plan approval is to be processed as a new model or system.

(b) A model designation may be changed or added prior to the expiration date by filing an amended application and plan filing fee pursuant to Section 4044 of this subchapter.

(c) Where the manufacturer proposes changes to the quality control manual, two copies of such changes shall be submitted to the department for approval accompanied by a quality control manual filing and plan checking fee pursuant to Section 4044 of this subchapter.

(d) Where changes are proposed to mobile home plans, designs, calculations, specifications, or quality control manuals subject to Title VI (24 C.F.R.), those requirements shall be applicable. (See Federal Mobile Home Procedural and Enforcement Regulations, Title VI, 24 C.F.R., Part 3282.)

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055, 18055.5, 18056.5, 18060, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. New subsection (d) filed 6–15–76 as an emergency; effective upon filing (Register 76, No. 25).
3. Certificate of Compliance filed 7–29–76 (Register 76, No. 31).
4. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4027. Change of Ownership.

(a) Where there is a change of ownership of a vehicle manufacturing business having department plan approval, the new owner shall notify the department in writing of such change within ten days. The notification shall be accompanied by a change in ownership fee pursuant to Section 4044 of this subchapter. If the new owner submits a statement that he will continue to manufacture in accordance with previously approved plans, new applications and plan filing fees pursuant to Section 4044 of this chapter shall not be required.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: 18055, 18056.5, 18060, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4028. Change of Name or Address.

In the event of a change in the name or address of any vehicle manufacturer, the manufacturer shall so notify the department in writing within ten days. The notification shall be accompanied by a change in name or address fee pursuant to Section 4044 of this subchapter.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055, 18055.5, 18056.5, 18060, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4029. Discontinuance of Manufacture.

When a vehicle manufacturer discontinues production of a model carrying department plan approval, the manufacturer shall, within ten days, advise the department of the date of such discontinuance and return all insignia allocated for such discontinued vehicles.

§ 4030. Unit Identification.

(a) Each unit manufactured, sold, offered for sale, rented or leased in California shall bear a permanently affixed label which contains the following information: Name of manufacturer; month and year of manufacture; vehicle identification number (VIN) or serial number; where applicable, the plan approval number; and manufacturer's assigned identification number.

(b) The label shall be permanently attached in one of the following locations:
(1) On the exterior wall immediately adjacent to the main door.
(2) On the rear of the unit on the lower left corner of the exterior wall.
(3) On the forward half of the left road side of the exterior wall.

NOTE: See Article 1, Section 4031 for label size and type of material.

(c) Each section of a multiple mobile home shall have the same serial number, except that the serial number of the primary or left (road) side section shall be prefaced by the letter "A". The serial number of the first connecting section shall be prefaced by the letter "B" and each additional section similarly identified in alphabetical order. (Should the number of connected sections exceed 26, the serial number of the 27th section would be preceded by the letters "AA" and the 28th "BB", etc.)

Each connecting section after the primary section shall have an identification label as prescribed in (a) above permanently attached to the front left corner (road side) of the exterior wall, not less than six inches above the floor line.

(d) Each section of a multiple commercial coach shall bear an individual serial number which shall not have any identifying letters as prescribed in subsection (c) of this section.

(e) Where applicable vehicle identification numbers (VIN's) or serial numbers shall be as assigned or required by the Department of Motor Vehicles. Slide–in campers shall have a manufacturers serial or identification number prefaced with the manufacturers identification number as assigned by the department, permanently affixed to the interior and exterior of the camper. The interior serial or identification number shall be located under the dinette seat area in the wing of the camper by permanently stamping or marking. If labels are used, they shall be in accordance with Section 4031.5 of this subchapter.

(f) Manufactured homes manufactured on and after June 15, 1976, shall have identification as required by the Federal Manufactured Home Construction and Safety Standards, Title VI, 24 C.F.R., Part 3280.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18025–18028.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment and new subsections (e) and (f) filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).
4. Amendment filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
5. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
6. Amendment filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
7. Certificate of Compliance transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).

§ 4031. Labels for Exterior Locations.

The label shall be either of 3 basic types, each capable of 20 year life expectancy when exposed to ordinary outdoor environments. Letters and numbers shall be bold Gothic or similar style varied for emphasis as large as space permits with smallest size being 5/64″. Wording shall be easily read and concise.

(a) Type I.* Rigid metal plates affixed by screws, rivets, or permanent type adhesives.

Minimum Size: .020″ x 1 1/2″ x 3″ net dimensions (inside fastener heads).

Material: Aluminum, brass or stainless steel etched, stamped, engraved, or embossed to .015 minimum depth differential—color anodized or enamel filled.

(b) Type II.* Flexible metal plates affixed by permanent adhesives—either pressure sensitive acrylics or solvent activated resins.

Minimum Size: .005″ x 1 1/2″ x 3″.

Material: Aluminum foil etched or stamped to .001 minimum depth differential with color anodized background.

(c) Type III.*

(1) Metalized polyester–surface bonded. Minimum Size: .003″ x 1 1/2″ x 3″ where variable information is not required.

(2) Aluminum/vinyl–surface bonded. Minimum Size: .006″ x 1 1/2″ x 3″ where variable information is required by debossing with a conventional typewriter.

(d) No person shall alter, remove, or cause to be altered or removed, any insignia or label required by this chapter.

(e) Labels for exterior locations on mobile homes shall conform to the Federal Mobile Home Construction and Safety Standards, Title VI, 24 C.F.R., Part 280.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055, 18055.5, 18056.4, 18056.5, Health and Safety Code.

*Where permanent type adhesives are used on Type I, II or III plates, adhesives shall have a minimum thickness of .004 inch, they shall be properly affixed to a smooth surface.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. New subsection (e) filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4031.5. Camper Labels.

Letters and numbers shall be bold Gothic or similar style varied for emphasis as large as space permits with smallest size being 5/64″. Wording shall be easily read and concise.

(a) Type I*. Rigid metal plates affixed by screws, rivets, or permanent type adhesives.

Minimum Size: .020″ x 3/4 x 2″ net dimensions (inside fastener heads).

Material: Aluminum, brass or stainless steel etched, stamped, engraved, or embossed to .015 minimum depth differential–color anodized or enamel filled.

(b) Type II*. Flexible metal plates affixed by permanent adhesives—either pressure sensitive acrylics or solvent activated resins.

Minimum Size: .005″ x 3/4 x 2″.

Material: Aluminum foil etched or stamped to .001 minimum depth differential with color anodized background.

(c) Type III*.

(1) Metalized Polyester–surface bonded.

Minimum Size: .003″ x 3/4″ x 2″ where variable information is not required.

(2) Aluminum/vinyl–surface bonded.

Minimum Size: .006″ x 3/4″ x 2″ where variable information is required by debossing with a conventional typewriter.

(d) No person shall alter, remove, or cause to be altered or removed, any label required by this subchapter.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.4, Health and Safety Code.

HISTORY

1. New section filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4032. Insignia Required.

(a) Unless prior written approval is granted by the department, all recreational vehicles and commercial coaches manufactured for sale in California shall bear a department insignia prior to leaving the manufacturing plant.

(b) Each insignia shall be assigned and affixed to a specific completed vehicle. Insignia shall only be affixed to vehicles that comply with the provisions of these regulations.

Insignia shall only be issued to out of state manufacturers for those vehicles constructed for sale in California.

(c) Assigned insignia are not transferable and are void when not affixed as assigned. All voided insignia shall be returned to, or may be confiscated by, the department. The insignia shall remain the property of the department and may be reappropriated by the department in the event of violation of the conditions of approval.

(d) The insignia shall be securely affixed to the rear of the vehicle on the lower left corner of the exterior wall not less than six inches above the floor line, or on the exterior wall immediately adjacent to the main door, not less than six inches above the floor line.

(e) The manufacturer shall maintain a current list of departmental insignia designating:

(1) Insignia affixed to vehicles.

(2) Insignia not affixed to vehicles.

(f) Mobile homes manufactured on and after June 15, 1976 are subject to Title VI (24 C.F.R.) requirements and shall bear a label pursuant to those requirements. (See Federal Mobile Home Procedural and Enforcement Regulations, Title VI, 24 C.F.R., Part 3282)

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055.5, 18056, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. New subsection (f) filed 6–15–76 as an emergency; effective upon filing (Register 76, No. 25).
3. Certificate of Compliance filed 7–29–76 (Register 76, No. 31).
4. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4033. Insignia Not Required.

(a) Vehicles falling into any of the following categories are not required by this subchapter to bear a department insignia or HUD label:

(1) Any mobile home, trailer coach, recreational vehicles, travel trailer, or camp car manufactured prior to September 1, 1958, any commercial coach or trailer coach designed for industrial, professional or commercial purposes manufactured prior to May 25, 1967.

(2) A recreational vehicle or commercial coach manufactured in California, designated by the manufacturer as an out–of–state delivery for, and delivered by the manufacturer or his agent to, a purchaser in another state.

(3) A recreational vehicle or commercial coach delivered in–state when:

(A) purchased by a common carrier, shipped by the seller via the purchaser, carried under a bill of lading whether the freight is paid in advance or the shipment is made freight charges collect to a point in another state, and the property is actually transported to the out–of–state destination for use by the carrier in the conduct of its business as a common carrier;

(B) purchased from a dealer located in another state for use outside of this state, delivered by the seller in California to the purchaser within this state, and such purchaser drives or moves such vehicle from the California manufacturer's place of business in this state to any out–of–state point within 30 days from and after the date of delivery.

(4) Mobile homes manufactured on and after June 15, 1976, bearing a Title VI (24 C.F.R.) label. (See Federal Mobile Home Procedural and Enforcement Regulations, Title VI, 24 C.F.R.)

(b) In each case the vehicle manufacturer shall supply the department with the following information within 30 days after shipment.

1. Make and model of the vehicle
2. Vehicle Identification Number (VIN)
3. Date of manufacture
4. Date of sale
5. Name of purchaser
6. Destination

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055.5, 18056, Health and Safety Code.

HISTORY

1. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
2. New subsection (a)(4) filed 6–15–76 as an emergency; effective upon filing (Register 76, No. 25).
3. Certificate of Compliance filed 7–29–76 (Register 76, No. 31).
4. Amendment of subsection (a) filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4034. Application for Insignia Pursuant to Plan Approval.

(a) Following receipt of plan approval, the vehicle manufacturer shall make application for an insignia for each vehicle manufactured, except as provided in Section 4033. The application shall be submitted to the department in duplicate, accompanied by the appropriate insignia fees pursuant to Section 4044. The application shall include the name of the vehicle manufacturer, manufacturer's identification number, plan approval number and the vehicle identification number (VIN) of each vehicle for which an insignia is requested. Multiple vehicles shall be designated where applicable.

(b) Out–of–State Manufacturers. Insignia shall only be issued to out–of–state manufacturers for those vehicles constructed for sale in California. The following additional information shall be supplied to the department with each request for insignia prior to shipment of the vehicle(s) to California:

(1) Estimated date of manufacture of vehicle.
(2) Estimated date of vehicle sale by manufacturer.
(3) Name and address of purchaser.
(4) Destination of vehicle (including address).
(5) Estimated date of arrival at destination.

The department shall be notified immediately, by the manufacturer, of any changes in the information provided pursuant to this section.

(c) Commercial Coaches. Insignia will only be issued for commercial coaches where the manufacturer designates at least the following on the application for insignia and the vehicle complies with all applicable provisions of the regulations:

(1) Vehicle identification number.
(2) Plan approval number.
(3) Occupancy classification.
(4) Roof and floor live loads.
(5) Windload.

(d) The department shall determine that the manufacturer's assembly, quality control procedures, plant equipment and personnel will assure that vehicles manufactured for sale in California comply with the California regulations for such vehicles.

(e) The department shall make inspections of vehicles under construction at the manufacturer's facilities to determine compliance and may accept the inspection and certification of other states pursuant to a reciprocity agreement.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055.5, 18056, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18). For prior history, see Registers 73, No. 36; 75, No. 30; 76, No. 25 and 76, No. 31.

§ 4034.3. Application for HUD Labels.

California manufacturers of manufactured homes subject to Title VI (24 C.F.R.), shall obtain HUD labels for each manufactured home manufactured on and after June 15, 1976. Applications for HUD labels shall be submitted to the department's Sacramento, California Office in triplicate, on Form 301 Request and Payment for Labels, dated October, 1986 and provided by the department, and shall be accompanied by administrative handling fees pursuant to Section 4044 of this subchapter. The application shall include the manufactured home manufacturer's name, the manufacturer's identification number, plan or design approval designation, and the manufactured home VIN (serial) number of each manufactured home for which labels are requested. Multiple unit manufactured homes shall be designated where applicable.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18025.5, Health and Safety Code.

HISTORY

1. New section filed 6–15–76 as an emergency; effective upon filing (Register 76, No. 25).
2. Certificate of Compliance filed 7–29–76 (Register 76, No. 31).
3. Amendment of NOTE filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
4. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).
5. Amendment filed 10–12–89; operative 10–12–89 (Register 89, No. 41).

§ 4034.5. Application for Insignia Pursuant to Requested Inspection.

(a) Any person selling, offering for sale, renting, or leasing any mobile home manufactured between September 2, 1958, and June 15, 1976, any trailer coach, travel trailer, or camp car manufactured after September 1, 1958; any trailer coach or commercial coach designed or used for industrial, professional or commercial purposes manufactured after May 25, 1967; shall obtain an insignia for such vehicle from the department, prior to sale, offering for sale, renting, or leasing said vehicle. (See Sections 4010 and 4011 relating to inspections.)

(b) Application for insignia shall be made on forms obtainable from the department together with the insignia fees required pursuant to Section 4044 of these regulations.

(c) The provisions of this section are not applicable to mobile homes manufactured on and after June 15, 1976, which are required to meet Federal Mobile Home Regulations. (See Federal Mobile Home Procedural and Enforcement Regulations, Title VI, 24 C.F.R.)

(d) Commercial Coaches. Prior to application pursuant to requested inspection, the commercial coach manufacturer shall have approved commercial coach structural system plans on file with the Department and an approved floor plan for all commercial coaches having in excess of 1000 square feet of gross floor area or toilet facilities.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055.5, 18056, 18060, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18). For prior history, see Registers 73, No. 36, 75, No. 30, 76, No. 25 and 76, No. 31.

§ 4035. Denial of Insignia.

Should inspection reveal that a manufacturer is not manufacturing vehicles according to plans approved by the department, and such manufacturer, after having been served with a notice setting forth in what respect the provisions of this chapter have been violated, continues to manufacture vehicles in violation of this chapter, applications for new insignia shall be denied and the insignia previously issued shall be confiscated. Upon satisfactory proof of compliance such manufacturer may resubmit an application for insignia.

§ 4036. Insignia Removal.

In the event that any vehicle bearing department insignia is found in violation of this chapter, and a Notice of Violations has been served pursuant to Sections 4013 or 4013.5, the department may remove the insignia. The department shall not issue a new insignia until corrections have been made; an inspection requested pursuant to Section 4010; inspection and insignia fees have been paid pursuant to Section 4044; and the vehicle has been inspected and found in compliance with these regulations.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055.5, 18056, Health and Safety Code.

HISTORY

1. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
2. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4037. Lost or Damaged Insignia.

(a) When an insignia of approval becomes lost or damaged, after sale by the manufacturer, the department shall be notified in writing by the owner. The notification shall specify:

1. That the vehicle had a California Department insignia of approval.
2. The manufacturer of the vehicle
3. The year of manufacture
4. The vehicle identification number (VIN)
5. When possible, the insignia number
6. Whether any alterations or conversions were made to the vehicle by the owner.

(b) Whenever possible, all damaged insignia shall be promptly returned to the department. Damaged and lost insignia shall be replaced by the department with a replacement insignia, on payment of the replacement insignia fee as provided in Section 4044, where the owner certifies that no alterations or conversions have been made to the vehicle. Where alterations or conversions have been made it will be necessary to also request an inspection pursuant to Section 4011.

(c) Whenever it becomes necessary to replace insignia for a manufacturer, the manufacturer shall submit a request in writing outlining all related circumstances and where possible, shall return insignia to be replaced together with replacement insignia fees pursuant to Section 4044.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055.5, 18056, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18). For prior history, see Registers 73, No. 36, 75, No. 30, 75, No. 48, 76, No. 5 and 77, No. 24.

§ 4038. Refund of Fees.

Upon receipt of a written request, the department shall consider a refund of fees paid pursuant to Section 4044. The department shall consider such refunds on their individual merit based upon the fee paid less costs already incurred and the administrative costs of processing the refund.

NOTE: Authority cited: Sections 17003.5 and 18015, Health and Safety Code. Reference: Sections 18025.5, 18026 and 18031, Health and Safety Code.

HISTORY

1. New section filed 5–4–79; effective thirtieth day thereafter (Register 80, No. 12).
2. Amendment filed 10–12–89; operative 10–12–89 (Register 9, No. 41).

§ 4040. Alteration or Conversion.

(a) No person shall make any alteration or conversion of the electrical, mechanical or plumbing equipment or installations of a vehicle bearing, or required to bear, an insignia of approval or Title VI (24 C.F.R.) label, unless an application for such alteration or conversion has been filed with, and approved by, the department.

(b) No person shall make any alteration or conversion of the construction or fire safety equipment or installations of any mobile home or commercial coach, bearing or required to bear an insignia of approval, or Title VI (24 C.F.R.) label, manufactured after September 15, 1971, or any recreational vehicle, bearing or required to bear a department insignia, manufactured after January 1, 1974, unless an application for such alteration or conversion has been filed with, and approved by, the department.

(c) No person shall make any alteration, conversion, or change relating to the occupancy of any vehicle bearing or required to bear an insignia of approval or Title VI (24 C.F.R.) label, unless an application for such alteration, conversion, or change relating to the occupancy has been filed with and approved by the department. This shall not prevent the granting of a permitted use by a local jurisdiction pursuant to the authority of Section 18300 of the Health and Safety Code providing the vehicle is not altered or converted from the condition and occupancy approved by the department.

(d) All alterations and conversions shall be made in compliance with these regulations.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment filed 7–30–76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 31).

§ 4040.5. Additions.

(a) No person shall make any additions to the electrical, mechanical, plumbing, construction, or fire safety equipment and installations nor any additions affecting the occupancy of any vehicle bearing, or required to bear, an insignia of approval or Title VI (24 C.F.R.) label unless an application has been filed with, ad approved by, the department.

(b) All additions shall be made in compliance with these regulations including any modification of the original vehicle necessary to accommodate said additions and provide minimum health and safety.

NOTE: Authority cited: Section 18057, Health and Safety Code. Reference: Section 18057, Health and Safety Code.

HISTORY

1. New section filed 7–30–76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 31).
2. Amendment of NOTE filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).

§ 4041. Not Applicable.

The following shall not constitute an alteration or conversion:

(a) Repairs with approved component parts.

(b) Conversion from one fuel to another of the listed appliances in accordance with the terms of their listing.

(c) Adjustment and maintenance of equipment.

(d) Replacement of equipment in kind.

(e) The addition of appliances, where a mobile home or recreational vehicle has been designed and equipped for such additions, including all necessary systems, circuits, etc.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–30–76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 31).
3. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).

§ 4042. Application Requirements.

(a) Any person proposing to make an alteration, conversion, or addition to a vehicle bearing or required to bear an insignia of approval, or Title VI (24 C.F.R.) label, shall file an application with, and obtain approval of, the department.

(b) Applications for alteration, conversion, or addition shall include:

(1) Type of vehicle (if commercial coach, occupancy classification).

(2) Make and model of the vehicle.

(3) Vehicle Identification Number (VIN).

(4) Insignia number, or HUD label number.

(5) Month and year of manufacture.

(6) A complete description of the work to be performed together with plans and specifications as required.

(7) Location of the vehicle where work is to be performed.

(8) Alteration or conversion fee and inspection fee pursuant to Section 4044.

(9) Name and address of the owner of the vehicle.

(10) Any proposed change in occupancy classification.

(c) Applications for addition of air–conditioning (comfort cooling) by licensed contractors where no alteration, conversion, or addition is made other than the installation and connection of listed air–conditioning (comfort cooling) components to systems provided by the manufacturer of the vehicle shall include:

(1) Type of vehicle (if commercial coach occupancy classification).

(2) Make and model of the vehicle.

(3) Vehicle Identification Number (VIN).

(4) Insignia number or HUD label number.

(5) A complete description of the work to be performed together with specifications as required.

(6) Location of the vehicle where the work is to be performed.

(7) Name and address of the vehicle owner.

(8) Alteration or conversion and a component label fee pursuant to Section 4044.

(9) Contractor's license number.

(10) Certification by the mobile home park operator or contractor that the lot service equipment and the mobile home park electrical system have the ampacity to accommodate the proposed installation, if the mobile home is located in a mobile home park; or certification by the contractor making application if the vehicle is located outside of a mobile home park, as applicable.

(d) Where the application for alteration conversion, or addition is made in accordance with subsection (b), the department may require inspections of the vehicle during the course of alteration, conversion, or addition to determine compliance with the regulations. The applicant shall make such requests for inspection, on forms furnished by the department, pursuant to Sections 4010 and 4011 together with inspection fees pursuant to Section 4044 of these regulations. Upon completion of the alteration, conversion, or addition the applicant shall request the department to make an inspection pursuant to Sections 4010 and 4011 of these regulations.

(e) Where the application for alteration, conversion, or addition is made in accordance with subsection (b) and includes any structural assembly subject to this chapter which is assembled at a location other than that of the vehicle being altered, converted, or added to, the department may require inspections of both the vehicle and the structural assembly. The applicant shall make such requests for inspection, on forms furnished by the department, pursuant to Sections 4010 and 4011 together with inspection fees and a component label fee pursuant to Section 4044 of these regulations.

The component label shall be affixed to the structural assembly indicating compliance with this chapter prior to delivery of the structural assembly to the site of installation.

(f) Where the application is for the addition of air–conditioning (comfort cooling) pursuant to Subsection (c), the department may issue a series of component labels to a licensed contractor where an application has been approved by the department. The department will provide the contractor with a normal 30 day supply, except where a contractor makes application for and certifies a contract exists for a specified number of installations in excess of the normal 30 day supply.

Component labels shall be assigned and affixed to installations by the contractor beginning with the lowest sequential number.

The component label shall be affixed to the condensing unit of the air–conditioning (comfort cooling) system at or near the point of entrance of its electrical inlet to indicate the contractor's compliance with these regulations relating to the installation of air–conditioning (comfort cooling).

The contractor shall submit a report to the Department at the end of each month, indicating the assignment and inventory of component labels that have been issued by the department. Where a contractor fails to submit a report, properly affix labels or fails to comply with other requirements of these regulations for additions, alterations or conversions, applications for component labels shall be denied and all unassigned component labels previously issued may be confiscated by the department.

The department may make inspections of air–conditioning (comfort cooling) installations permitted under this subsection to determine compliance with these regulations. Where inspection indicates a violation of these regulations a Notice of Violations pursuant to Section 4013 shall be issued to the contractor. Violations shall be corrected within 10 days or such other period of time as may be allowed by the department and an inspection shall be requested by the contractor. Where violations are not corrected within the allotted time the department shall institute legal and/or administrative actions as necessary to secure compliance.

Applications made by contractors with outstanding Notices of Violations on file with the department shall be made pursuant to Subsection (b) of this section.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18057, Health and Safety Code.

HISTORY

1. Amendment of subsections (c) and (f) filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14). For prior history, see Register 73, No. 36; Register 75, No. 30; and Register 76, No. 31.
2. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4044. Fees.

(a) Plan Fees.

(1) Plan Checking Fee. Two hundred three dollars ($203) provided the plan check does not exceed one hour. When the plan check exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: ninety–two dollars ($92).

(B) Each thirty (30) minutes, or fractional part thereof: forty–six dollars ($46).

(2) Plan Resubmission Fee. Two hundred three dollars ($203) provided the plan resubmission plan check does not exceed one hour. When the plan resubmission plan check exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: ninety–two dollars ($92).

(B) Each thirty (30) minutes, or fractional part thereof: forty–six dollars ($46).

(3) Plan Supplement Fee. Two hundred three dollars ($203) provided the plan supplement plan check does not exceed one hour. When the plan supplement plan check exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: ninety–two dollars ($92).

(B) Each thirty (30) minutes, or fractional part thereof: forty–six dollars ($46).

(4) Plan Renewal Fee. Two hundred three dollars ($203) for each plan or group of plans.

(b) Quality Control Manual Filing Fee. Ten dollars ($10).

(c) Inspection, Reinspection, or Monitoring Fees.

(1) Manufactured Home, Mobilehome, Multi-Unit Manufactured Housing, Commercial Modular and Special Purpose Commercial Modular Manufacturer Monitoring. One hundred ninety-six dollars ($196) provided the in-plant monitoring does not exceed one hour. When the in-plant monitoring exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty-two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty-one dollars ($41).

(2) Inspection Fees. One hundred ninety-six dollars ($196) provided the inspection or reinspection does not exceed one hour. When the inspection or reinspection exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty-two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty-one dollars ($41).

(d) Technical Service Fees.

(1) One hundred ninety-six dollars ($196) provided the technical service does not exceed one hour. When the technical service exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty-two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty-one dollars ($41).

(e) Alternate Approval Fees. Two hundred three dollars ($203) for the plan check fee for a minimum of one hour as established in Section 4008.

(f) Administrative Handling Fees for Federal Labels.

(1) Six dollars ($6.00) for each new manufactured home label, issued to cover the costs of postage, handling and administration.

(g) Insignia Fees.

(1) Fifty-one dollars ($51) for each manufactured home, mobilehome, multi-unit manufactured housing, commercial modular, or special purpose commercial modular insignia.

(2) Eighty-three dollars ($83) for each department replacement insignia.

(h) Requested Out-of-State Inspection or Technical Service Fee. Total travel cost based on published air fare, or equivalent rate, between the point of departure from California and the point of inspection, plus necessary supplemental surface transportation, reimbursement for food and lodging consistent with California State Department of Personnel Administration allowances and inspection or technical service fees as specified in this section.

(i) Change in Manufacturer Name, Ownership or Address Fee. Sixty-two dollars ($62).

(j) Component Label Fee. Twenty-four dollars ($24).

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18031, Health and Safety Code.

HISTORY

1. Amendment filed 10-12-89; operative 10-12-89 (Register 89, No. 41). For prior history, see Register 81, No. 45).
2. Amendment filed 12-29-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4045. Appeals.

Any person refused department approval, receiving a notice of violation, or who feels aggrieved by application of this subchapter, may request and shall be granted a hearing on the matter before the director of the department or his duly authorized representative. Such person shall file with the department a written petition requesting such hearing which shall set forth a brief statement of the grounds therefor.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055.5, 18080, Health and Safety Code.

HISTORY

1. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
2. Amendment filed 5-4-79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4046. Notice of Hearing.

Upon receipt of such petition, the department shall set a time and place for such hearing and shall give the petitioner written notice thereof. Said hearing shall commence no later than 30 days after the day on which said petition was filed provided that, upon application of the petitioner, the department may postpone the date of such hearing for a reasonable time beyond such 30-day period, if in its judgment the petitioner has submitted a good and sufficient reason for such postponement. Should petitioner fail to appear at the scheduled time and place of said hearing, the department may dismiss the petition without further action.

§ 4046.1. Application.

HISTORY

1. Repealer and new section filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30). For history of former section, see Register 73, No. 36.
2. Repealer filed 9-26-75; effective thirtieth day thereafter (Register 75, No. 39).

§ 4046.2. Notification.

HISTORY

1. Repealer and new section filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30). For history of former section, see Register 73, No. 36.
2. Repealer filed 9-26-75; effective thirtieth day thereafter (Register 75, No. 39).

§ 4046.5. Result of Hearing.

Upon conclusion of such hearing, the director of the department, or his duly authorized representative shall notify the petitioner in writing of his decision in the matter.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055-18063, Health and Safety Code.

HISTORY

1. New section filed 9-26-75; effective thirtieth day thereafter (Register 75, No. 39).

§ 4046.7. Title VI (24 C.F.R.) Appeals Procedure.

The appeals procedure is outlined in the Title VI (24 C.F.R.) for mobile homes manufactured on or after June 15, 1976, Federal Mobile Home Procedural and Enforcement Regulations.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055.5 and 18080, Health and Safety Code.

HISTORY

1. New section filed 6-15-76 as an emergency; effective upon filing (Register 76, No. 25).
2. Certificate of Compliance filed 7-29-76 (Register 76, No. 31).
3. Amendment of NOTE filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
4. Amendment filed 5-4-79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4047. Reciprocity.

(a) Pursuant to Section 18058.5 of the Health and Safety Code, the department may accept the standards and enforcement procedures of other states, relating to recreational vehicles, for the purposes of reciprocity with such states.

(b) Whenever the department has accepted the standards and enforcement procedures of another state, relating to recreational vehicles, as being at least comparable to those of California, any recreational vehicle, approved by such other state, as meeting its standards for recreational vehicles shall be considered as meeting the California regulations for recreational vehicles.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18058.5, Health and Safety Code.

HISTORY

1. Repealer filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
2. New section filed 9-26-75; effective thirtieth day thereafter (Register 75, No. 39).
3. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
4. Amendment filed 5-4-79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4047.3. Application.

In order to determine that the standards and enforcement procedures of another state are at least equal to those of California, the department may request from such state:

(1) A copy of the statutes, regulations, codes, or standards relating to the construction, fire safety, occupancy, electrical, mechanical and plumbing of recreational vehicles.

(2) A copy of the statutes, regulations, codes, or standards relating to the administration and enforcement of construction, fire safety, occupancy, electrical, mechanical and plumbing requirements for recreational vehicles.

(3) The organizational structure of the agency, including the number, type, and qualification of all positions.

(4) Procedures and methods for evaluating materials and equipment.

(5) Procedures and methods for evaluating and approving recreational vehicles including plan checking, in–plant inspections, and individual vehicle inspections.

(6) Procedures and methods for securing compliance including orders, time–limit notices, hearings and legal action.

(7) The name and address of all recreational vehicle manufacturers.

(8) Estimated annual production of recreational vehicles.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18058.5.

HISTORY

1. New section filed 9–26–75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4047.6. Notification.

Whenever any vehicle manufactured in a state having reciprocity with California is found to have violations of the California regulations relating to construction, fire safety, occupancy, electrical, mechanical and plumbing, such state shall be notified of the violations and shall report what action has been taken to preclude future violations.

HISTORY

1. New section filed 9–26–75; effective thirtieth day thereafter (Register 75, No. 39).

§ 4048. Authority and Scope.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).

Article 1.1. Issuance of Insignia for Manufactured Homes, Mobile Homes, Commercial Coaches and Recreational Vehicles Not Previously Issued Insignia of Approval

§ 4049.1. Application and Scope.

The provisions of this article relating to construction, energy conservation, fire safety, electrical, mechanical, heating and plumbing equipment and installations and occupancy requirements are applicable to all manufactured homes, mobile homes, commercial coaches and recreational vehicles, that have not been issued department insignia, and which meet the requirements of reasonable standards of health and safety as set forth in this subchapter.

NOTE: Authority cited: Sections 17003.5 and 18015, Health and Safety Code. Reference: Sections 18025, 18028, 18029.5 and 18031.5, Health and Safety Code.

HISTORY

1. New Article 1.1 (§§ 4049.1–4049.17, not consecutive) filed 5–30–75; designated effective 7–1–75 (Register 75, No. 22).
2. Repealer of Article 1.1 (Sections 4049.1–4049.17, not consecutive) and new Article 1.1 (Sections 4049.1–4049.17, not consecutive) filed 12–23–77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 52). For prior history, see Registers 75, No. 43 and 76, No. 5.
3. Amendment filed 4–2–81; effective thirtieth day thereafter (Register 81, No. 14).
4. Repealer of Article 1.1 (Sections 4049.1–4049.17, not consecutive) and new Article 1.1 (Sections 4049.1–4049.9, not consecutive) filed 7–28–82 as an emergency; effective upon filing (Register 82, No. 31). For prior history, see Registers 80, No. 45 and 79, No. 51. A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–25–82.

§ 4049.3. Structural, Fire Safety and Energy Requirements.

(a) In lieu of the requirements of Section 4050(b), the structural, fire safety and energy equipment and installations of manufactured homes and mobile homes manufactured on or after September 15, 1971, and before June 15, 1976, shall conform to the following:

(1) Minimum Requirements. The design and construction of a manufactured home or mobile home shall conform with the provisions of this article. Requirements for any size, weight, or quality of material modified by the terms of "minimum," "not less than," "at least," and similar expressions are minimum standards.

(2) Construction. All construction methods shall be in conformance with accepted engineering practice standards to ensure durable, livable, and safe housing. Exposed metal structural members shall be protected to resist corrosion.

(3) Structural Analysis. The strength and rigidity of the component parts and/or the integrated structure shall be determined by engineering analysis.

(4) Design Dead Loads. Design dead loads shall be actual dead load supported by the structural assembly under consideration.

(5) Design Live Loads. The design live loads shall be as specified in Sections 4049.3 (a)(6), (7), (8), (10), (13), (16) and (17) and shall be considered to be uniformly distributed. The roof live load shall not be considered as acting simultaneously with the wind load and the roof and floor live loads shall not be considered as resisting the overturning moment due to wind.

(6) Wind Loads. Manufactured homes or mobile homes shall be designed to withstand minimum horizontal and uplift pressures from any direction as follows:

Horizontal	15 lb/ft^2
Vertical (horizontal projection)	9 lb/ft^2 uplift

Unit stresses may be increased in accordance with the applicable accepted engineering practice standards.

(7) Roof Loads. Flat, curved and pitched roof members shall be designed to sustain all loadings as follows:

(A) All dead loads plus a minimum unit live load of 20 lb/ft^2

(B) A vertical uplift load of 9 lb/ft^2

(8) Snow Loads. Where it is known that the manufactured home or mobile home will be subjected to snow loads, the manufactured home or mobile home shall be designed for the appropriate loads. Unit stresses may be increased in accordance with applicable accepted engineering practice standards.

(9) Fastening of Structural Systems. Roof framing shall be securely fastened to wall framing, walls to floor structure, and floor structure to chassis to secure and maintain continuity between the floor and chassis, so as to resist wind overturning and sliding as imposed by design loads in Section 4049.3(a)(6).

(10) Walls. The walls shall be of sufficient strength to withstand the load requirements as defined in Section 4049.3(a)(6), (7) and (8) and without exceeding the deflections specified in Section 4049.3(a)(16). The connections between the bearing walls, floor, and roof framework members shall be fabricated in such a manner as to provide support for the material used to enclose the manufactured home or mobile home and to provide for transfer of all lateral and vertical loads to the floor and chassis.

(11) Interior Walls. Interior walls shall be constructed with structural capacity adequate for the intended purpose and shall be capable of resisting a horizontal load of not less than five pounds per square foot.

(12) Firestopping. Firestopping shall be provided in multistory manufactured homes or mobile homes to cut off all concealed draft openings in all stud walls and partitions, including furred spaces, so placed that the

maximum vertical dimension of any concealed space is not over eight feet.

(13) Floors.

(A) Floor assemblies shall be designed in accordance with accepted engineering practice standards to support a minimum uniform live load of 40 lb/ft^2 plus the dead load of the materials. In addition (but not simultaneously), floors shall be able to support a 200–pound concentrated load on a two inch diameter disc at the most critical location with a maximum deflection not to exceed one–eighth inch relative to floor framing. Perimeter joists of more than six inches depth shall be stabilized against overturning from superimposed loads as follows: at ends by solid blocking not less than two inch thickness by full depth of joist, or by connecting to a continuous header not less than two inch thickness and not less than the depth of the joist with connecting device; at eight feet maximum intermediate spacing by solid blocking or by wood cross–bridging of not less than one inch by three inches, metal cross–bridging of equal strength, or by other approved methods.

(B) Wood floors or subfloors in kitchen, bathrooms (including toilet compartments), laundry rooms, water heater compartments, and any other areas subject to excessive moisture shall be moisture resistant or shall be made moisture resistant by sealing or by an overlay of nonabsorbent material applied with water–resistant adhesive.

(14) Carpet. Carpet and/or carpet pads shall not be installed in concealed spaces subject to excessive moisture such as under plumbing fixtures. Carpet and/or pads shall not be installed beneath the bottom plate of shear and bearing walls.

(15) Underfloor Closure Material. Underfloor closure material and method of construction shall be such as to resist damage which would permit penetration of the underside of the manufactured home or mobile home by water, rodents or insects.

(16) Deflections. Deflection of structural assemblies shall not exceed the following:

Floor	L/240
Roof and Ceiling Members	L/180
Sidewalls	L/180

Where L = the clear span between supports or two times the length of a cantilever.

(17) Roof Members. Roof members shall be capable of withstanding the loads and meet the deflection requirements of Sections 4049.3(a)(6), (7), (8), and (16).

(18) Roof Coverings.

(A) General. Roof coverings shall be securely fastened in an approved manner to the supporting roof construction and shall provide weather protection for the manufactured home or mobile home and the occupants. All roof decks shall be designed with sufficient slope or camber to assure adequate drainage, or shall be designed to support maximum loads including possible ponding of water due to deflection. Roof covering shall be installed pursuant to the manufacturer's instructions and as approved by the department.

(B) Construction. All roofs shall be so framed and tied into the framework and supporting walls as to form an integral part of the manufactured home or mobile home. All trusses shall be laterally braced.

(19) Weather Resistance. Exterior covering shall be of moisture and weather resistive materials attached with corrosion resistant fasteners to resist wind and rain. Metal coverings shall be of corrosion resistant materials.

(20) Rodent Resistance. Exterior surfaces shall be sealed to resist the entrance of rodents.

(21) Heat Loss. The total calculated heat loss of the living unit at the outdoor design temperature shall not exceed 40 Btu/hr/ft^2 of the total floor area or 275 Btu/hr lineal ft. of the perimeter of the space to be heated to 70° F, whichever is greater. The minimum total resistance value (R), excluding framing, of the wall (less windows and doors), ceiling, and floor shall not be less than:

Wall	8.0
Ceiling	16.0
Floor	10.0

(22) "R" values and "U" factors shall be calculated in accord with the provisions of Chapter 20 of the 1972 ASHRAE Handbook of Fundamentals (American Society of Heating, Refrigerating, and Air Conditioning Engineers, 345 East 74th Street, New York, New York 10017).

(23) Framing Heat Loss. In the absence of specific data, for the purpose of heat loss calculations, the following framing areas shall be assumed:

Wall	20% of net wall area (less windows)
Ceiling	5% of total ceiling area
Floor	10% of net floor area (less duct area)

(24) Infiltration Heat Loss. The following shall be used to estimate infiltration heat loss, or infiltration heat loss may be calculated using the method in Chapter 19 of the 1972 ASHRAE Handbook of Fundamentals (American Society of Heating, Refrigerating, and Air Conditioning Engineers, 345 East 74th Street, New York, New York 10017).

Outside Design Temperature Degrees F	*Infiltration Allowance Btu/hr*
40	3,330
30	4,440
20	5,550
10	6,660
0	7,770
minus 10	8,880
minus 20	9,990
minus 30	11,100
minus 40	12,210

(25) Light and Ventilation. Adequate provisions shall be made for light and ventilation in accordance with the following:

(A) Habitable Rooms. Habitable rooms shall be provided with exterior windows or doors having a total glazed area of not less than 10 percent of the gross floor area. An area equivalent to not less than 5 percent of the gross floor area shall be available for unobstructed ventilation. Glazed areas need not be openable where a mechanical ventilation system is provided and is capable of producing a change of air in the room(s) every thirty minutes with not less than one–fifth of the air supply taken from outside the manufactured home or mobile home. However, kitchens may be provided with artificial light and mechanical ventilation capable of producing a change of air in the room every 30 minutes. Windows and doors used for light or ventilation shall open directly to the outside of the manufactured home or mobile home.

(B) Bathroom. Each bathroom shall be provided with artificial light and, in addition, be provided with external windows or doors having not less than 1–1/2 square feet of fully openable glazed area, except where a mechanical ventilation system is provided capable of producing a change of air every 12 minutes. Any mechanical ventilation system shall exhaust directly to the outside of the manufactured home or mobile home.

(26) Ceiling Height. Every habitable room shall have a minimum ceiling height of not less than seven feet in at least 50 percent of its required area with no portion of the required area less than five feet in height. Hallways shall have a minimum ceiling height of six feet, six inches.

(27) Exit Facilities.

(A) Manufactured homes or mobile homes shall have a minimum of two exterior doors located remote from each other and so arranged as to provide a means of unobstructed travel to the outside of the manufactured home or mobile home.

(B) Exterior doors shall be constructed for exterior use and in no case provide less than a 28–inch–wide clear opening. Each exterior door shall have a key–operated lock. The locking mechanism of the lock shall be engaged or disengaged by the use of a lever, knob, button, handle, or other device from the inside. Locks shall not require the use of a key for operation from the inside.

(C) Every room designed expressly for sleeping purposes, unless it has an exit door (see Section 4049.3(a)(27)(B)), shall have at least one outside window which can be opened from the inside without the use of tools to provide a clear opening of not less than 22 inches in least dimension and five square feet in area with the bottom of the opening not more than four feet above the floor. Where a screen or storm window must be removed from this window to permit emergency egress, it shall be readily removable without requiring the use of tools.

(28) Interior Passage. Interior doors having passage hardware without a privacy lock, or with a privacy lock not engaged, shall open from either side by a single movement of the hardware mechanism in any direction.

(29) Every manufactured home or mobile home shall have at least one habitable room with not less than 150 square feet of gross floor area. Rooms designed for sleeping purposes shall have a minimum gross square foot floor area as follows:

One person	50
Two persons	70
Each person in excess of two	50

(30) No habitable room, except a kitchen, shall be less than five feet in any clear horizontal dimension.

(31) Hallways shall have a minimum horizontal dimension of 28 inches.

(32) Glazing in hazardous locations shall comply with Table MH–1.

Table MH–1 Glazing in the Following Specific Hazardous Locations Shall Meet the Following Requirements

Specific Hazardous Locations	*Size of Individual Glazed Area*	*Requirements* [2]
Glazing in exit and entrance doors	Over 6 sq. ft.	Each glazed area shall pass the requirements of ANSI Standard Z97.1 [3] if not protected by a protective grille [1] firmly attached to stiles on each exposed side.
Glazing in storm doors	Over 2 sq. ft.	Each glazed area shall pass the requirements of ANSI Standard Z97.1 [3] if not protected by a protective grille [1] firmly attached to stiles on each exposed side.
Glazing in sliding exterior doors	All Sizes	Each glazed area shall pass the requirements of ANSI Standard Z97.1.[3]
Glazing in all unframed doors (swinging)	All Sizes	Each glazed area shall be fully tempered glass and pass the requirements of ANSI Standard Z97.1.[3]
Glazing in shower doors and tub enclosures	All Sizes	Each glazed area shall pass the test requirements of ANSI Standard Z97.1.[3]
Other fixed glazed panels located within 12 inches on either side of exit and entrance doors	All Sizes	Each glazed area within 18 inches of the floor shall pass the requirements of ANSI Standard Z97.1 [3] unless the glazed area is protected by a barrier within 12 inches immediately in front of the glazing.

[1] Shall be constructed and attached in such a manner so as to prevent human impact from being delivered to glass surface.

[2] Annealed glass less than single strength (SS) in thickness shall not be used. If short dimension is larger than 24 inches, annealed glass must be double strength (DS) or thicker.

[3] American National Standard Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings, as approved January 20, 1972, American National Standards Institute, 1430 Broadway, New York, New York 10018.

(33) Fire Warning Equipment. At least one listed smoke detector (which may be a single station alarm device) shall be installed in each manufactured home or mobile home.

For the purpose of this article, a "smoke detector" is a device which detects visible or invisible particles of combustion. A "single station alarm device" is an assembly incorporating a detector and an alarm sounding device in one unit, operated from a power supply either in the unit or obtained at the point of installation. Detectors shall operate from an AC, monitored battery, or combination AC/battery power source.

(34) Smoke Detector Location. Smoke detector(s) shall be located outside of bedrooms or in a hallway or space communicating thereto, on or near the ceiling, and shall be installed in accordance with the manufacturer's instructions. Manufactured homes or mobile homes having bedrooms separated by any one or a combination of common use areas, such as a kitchen, dining room, living room, or family room (but not a bathroom or utility room), shall have at least two detectors.

(35) Alarm Sounding Device. Every smoke–detector shall have an operable alarm signaling device or devices which is clearly audible in all bedrooms with all intervening doors closed and is rated not less than 85 decibels at 10 feet.

(36) Detector Trouble Signals. Detectors requiring a light source for operation shall have an audible trouble signal on failure of the light source, but such failure shall not cause an alarm. Detectors not requiring a light source for operation shall have either a visible light to indicate operability or an audible trouble signal. Audible trouble signals shall be designed to operate at least every minute for seven consecutive days.

(b) The structural, fire safety and energy equipment and installation of commercial coaches shall comply with the applicable provisions of this subchapter.

(c) The fire safety equipment and installations of recreational vehicles manufactured on or after January 1, 1974, shall conform to the following:

(1) Interior Walls, Partitions, and Ceiling. The interior surfaces of walls, fixed or movable partitions, and ceilings of habitable areas and hallways, excluding bath and toilet rooms, molding, doors, trim, cabinets, splash panels and furnishings, shall be of materials whose flame–spread classification shall not exceed 200 when tested by the Standard Method of Test for Surface Burning Characteristics of Building Materials as provided in the American Society for Testing and Materials (ASTM) designation E84–70^{e},1973 Annual Book of ASTM Standards (ASTM, 1916 Race Street, Philadelphia, PA 19103).

(2) Where the walls, partitions or ceilings consist of textile or film materials such as tent fabric, insect screening, flexible plastic weather protection, etc., they shall conform to the requirements of Paragraphs S4.3 and S5 of Federal Motor Vehicle Safety Standard No. 302, "Flammability of Interior Materials (Title 49, CFR 571.302)."

(3) In lieu of the requirements of Section 4049.3(c)(1) and (2) a listed battery operated smoke detector may be installed in accordance with the equipment manufacturer's installation instructions.

(4) Recreational vehicles shall have a minimum of two means of egress located remote from each other and so arranged as to provide a means of unobstructed travel to the outside of the vehicle.

(5) The alternate means of egress in motor homes and truck campers shall be located on a wall other than that wall in which the main vehicle exit door is located, or shall be located in the roof.

(6) The bottom of the alternate means of egress shall not be more than four (4) feet above the vehicle floor or above a readily accessible horizontal surface capable of supporting a weight of 300 pounds.

(7) The latch mechanism of any required exit facility shall be operable by hand, and shall not require the use of a key or special tool for operation from the inside.

(8) The alternate exit shall provide an opening large enough to admit unobstructed passage, keeping the major axis horizontal at all times, of an ellipsoid generated by rotating about its minor axis an ellipse having a major axis of 20 inches and a minor axis of 13 inches.

9) Alternate exits shall be labeled with the word "EXIT" with 1/2" minimum letters on a contrasting background.

NOTE: Authority cited: Sections 17003.5 and 18015, Health and Safety Code. Reference: Sections 18025, 18028, 18029.5 and 18031.5 Health and Safety Code.

HISTORY

1. Editorial correction filed 11–19–82 (Register 82, No. 47).

§ 4049.5. Plumbing Requirements.

(a) The plumbing equipment and installations for manufactured homes, mobile homes, commercial coaches and recreational vehicles shall conform to the applicable provisions of this subchapter.

NOTE: Authority cited: Sections 17003.5 and 18015, Health and Safety Code. Reference: Section 18025, Health and Safety Code.

§ 4049.7. Mechanical Requirements.

(a) The heating, cooling, fuel–burning equipment and installations of manufactured homes or mobile homes manufactured after September 1, 1958 and prior to June 15, 1976, and all recreational vehicles shall conform to the applicable provisions of this subchapter with the following exceptions:

(1) Gas ranges installed in manufactured homes, mobile homes and recreational vehicles manufactured prior to May 1, 1962, are required to be listed by an approved testing agency, and installed in accordance with the terms of their listing.

(2) Gas fired refrigerators and clothes dryers installed in manufactured homes, mobile homes and recreational vehicles manufactured prior to August 15, 1963, are required to be listed by an approved testing agency, and installed in accordance with the terms of their listing.

(3) Gas fired furnaces and water heaters installed in manufactured homes, mobile homes and recreational vehicles manufactured prior to January 1, 1965, are permitted to be installed in a separate enclosed space completely isolated from the living spaces; any access to the enclosed space from the living space, must have a tight fitting door, with a tag stating "This door must be closed when heater is in operation." Heating appliances must be listed by an approved testing agency and installed in accordance with the manufacturer's installation instructions. No furnace or water heater shall be installed in a bedroom, bathroom or clothes closet.

(4) Manufactured homes, mobile homes and recreational vehicles manufactured prior to September 1, 1967, are not required to have a gas shut–off valve ahead of each appliance in the gas piping system.

(5) Gas ranges installed in manufactured homes, mobile homes and recreational vehicles manufactured prior to September 1, 1964, are required to have vertical clearances above the cooking top to combustible materials, in accordance with terms of their listing.

(b) The heating, cooling, fuel–burning equipment and installation thereof for commercial coaches shall comply with applicable provisions of this subchapter.

NOTE: Authority cited: Sections 17003.5 and 18015, Health and Safety Code. Reference: Section 18025, Health and Safety Code.

HISTORY

1. Editorial correction of subsection (a) filed 11–19–82 (Register 82, No. 47).

§ 4049.9. Electrical Requirements.

(a) The electrical equipment and installation of manufactured homes or mobile homes manufactured after September 1, 1958 and prior to June 15, 1976, and all recreational vehicles shall conform to the applicable provisions of this subchapter with the following exceptions:

(1) Manufactured homes, mobile homes and recreational vehicles manufactured prior to September 1, 1964, require only one (1) 20 ampere appliance circuit in the kitchen and one (1) 15 ampere general purpose lighting circuit. Units with not more than a total of six (6) lighting outlets and general appliance and convenience outlets combined, shall have not less than one (1) 20 ampere no. 12 gauge copper wire circuit to supply these outlets and the total rating of fixed appliances connected to this circuit shall not exceed nine (9) amperes or one thousand (1,000) watts.

(2) Manufactured homes, mobile homes and recreational vehicles manufactured prior to September 1, 1964, require receptacle outlets installed every twenty (20) linear feet or major fraction thereof for the total (gross) distance around the room as measured horizontally along the wall at the floor line.

(3) Manufactured homes, mobile homes and recreational vehicles manufactured prior to September 1, 1964, shall have grounding type receptacles for laundry appliances and exterior locations or shall have the circuits or receptacles protected by a ground–fault interrupter.

(4) Manufactured homes, mobile homes and recreational vehicles manufactured prior to September 1, 1975, are not required to have electrical ground–fault circuit protection, except as permitted by Section 4049.9(a)(3).

(5) Manufactured homes, mobile homes and recreational vehicles with aluminum 15 and 20 ampere branch circuit wiring shall have listed CO/ALR receptacles and switches or the circuits connected to the receptacles and switches by copper conductors in the outlet box with listed wire nuts or wire connectors (pigtailed).

(6) Manufactured homes, mobile homes and recreational vehicles manufactured prior to June 15, 1976, are not required to have an exterior receptacle at the water connection to energize a heat tape.

(b) The electrical equipment and installation thereof for commercial coaches shall comply with the applicable provisions of this subchapter.

NOTE: Authority cited: Sections 17003.5 and 18015, Health and Safety Code. Reference: Section 18025, Health and Safety Code.

HISTORY

1. Editorial correction of subsection (a) filed 11–19–82 (Register 82, No. 47).

Article 1.2. Mobile/Factory–Built Housing

§ 4049.50. Application and Scope.

The more restrictive provisions of Chapter 3, Subchapters 1 and 2, Title 25, of the California Administrative Code, relating to construction, fire safety, electrical, mechanical, plumbing, and occupancy apply to all mobile/factory–built units manufactured and sold or offered for sale in California.

(a) Standards for Equipment and Installations. Standards for equipment and installations are listed in the California Administrative Code, Title 25, in Chapter 3, Subchapters 1 and 2.

(b) Standards for Construction, Fire Safety, Electrical, Mechanical, Plumbing, and Occupancy. The construction, fire safety, electrical, mechanical, plumbing and occupancy requirements of a mobile/factory built unit shall conform to the most restrictive requirements of the California Administrative Code, Title 25, Chapter 3.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18000–18080.5 and 19960–19997, Health and Safety Code.

HISTORY

1. New Article 1.2 (Sections 4049.50, 4049.53, 4049.59) filed 9–26–75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4049.53. Plan Approval.

All manufacturers who plan to construct mobile/factory built units for sale in California shall submit an application to the department together with plans, specifications, quality control manual, and fees pursuant to the following.

(a) The plans, specifications, and quality control manual shall conform to and incorporate the most restrictive requirements of, the California Administrative Code, Title 25, Chapter 3, Subchapters 1 and 2.

(b) The fees shall be paid in accordance with Section 4044 of this subchapter.

(c) When the mobile/factory built unit has been certified by the department as complying with Title 25, Chapter 3, Subchapters 1 and 2, the manufacturer shall furnish a minimum of two sets of the approved plans, containing a resume of what installation work is to be done on site, to the installer who shall submit one set to the local enforcement agency prior to installation.

(d) mobile home and mobile/factory built housing shall not have the same department plan approval numbers.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18000–18080.5, 19960–19997, Health and Safety Code.

HISTORY

1. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
2. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

§ 4049.59. Insignia.

All mobile/factory built housing units manufactured pursuant to this article shall have mobile home insignia issued pursuant to Sections 4032–4037 of this chapter.

(a) Factory–Built Housing Insignia. A manufacturer may request the department to certify mobile/factory built housing unit(s) bearing a department insignia. Upon approval by the department, a factory–built housing insignia may be issued pursuant to the California Administrative Code, Title 25, Chapter 3, Subchapter 1, Sections 3135–3141.

(b) Upon receipt of application and fees for certification, the department shall make an inspection of the mobile/factory–built housing unit and if the unit complies with all the requirements of the California Administrative Code, Title 25, Chapter 3, Subchapter 1, the department shall issue insignia pursuant to the California Administrative Code, Title 25, Chapter 3. The mobile home insignia issued pursuant to this article shall be reappropriated by the department.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18000–18080.5 and 19960–19997, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

Article 2. Mobile Homes

Subarticle 1. Application

§ 4050. Application and Scope.

(a) The provisions of the Federal Mobile Home Procedural and Enforcement Regulations and Construction and Safety Standards relating to construction and fire safety apply to all mobile homes manufactured on or after June 15, 1976, bearing or required to bear a Title VI (24 C.F.R.) label.

(b) The provisions of National Fire Protection Association Standard (NFPA) 501 B, 1974 Edition/American National Standards Institute Standard (ANSI) A119.1, 1975 Edition, Part B, relating to construction and fire safety apply to all mobile homes manufactured between September 15, 1971, and June 14, 1976, and sold, offered for sale, rent, or lease within this state.

(c) The provisions of Federal Mobile Home Construction and Safety Standards relating to construction and fire safety are applicable to the alteration or conversion of any construction or fire safety equipment or installations in any mobile home manufactured after September 15, 1971, bearing or required to bear a department insignia or Title VI (24 C.F.R.) label.

(d) The provisions of Federal Mobile Home Construction and Safety Standards relating to construction and fire safety are applicable to any addition to a mobile home manufactured after September 1, 1958, bearing or required to bear a department insignia or Title VI (24 C.F.R.) label.

(e) The provisions of Federal Mobile Home Construction and Safety Standards relating to plumbing, heating, cooling, fuel burning, and electrical equipment and installations apply to any mobile home manufactured after September 1, 1958, bearing or required to bear a department insignia or Title VI (24 C.F.R.) label.

(f) The provisions of Federal Mobile Home Construction and Safety Standards relating to plumbing, heating, cooling, fuel burning, and electrical equipment and installations are applicable to the alteration, conversion, or addition of any plumbing, heating, cooling, fuel burning, and electrical equipment and installations in any mobile home manufactured after September 1, 1958, bearing or required to bear a department insignia or Title VI (24 C.F.R.) label.

(g) The Federal Mobile Home Procedural and Enforcement Regulations and Construction and Safety Standards (Title VI, 24 C.F.R.) are reproduced in Article 2, Divisions 2 and 3 of this subchapter for reference.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055–18058, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

Effective Date

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer of Article 2 (Sections 4050–4339, not consecutive) and Appendix MH–P, and new Article 2 (Sections 4050–4070, not consecutive) filed 6–15–76 as an emergency; effective upon filing (Register 76, No. 25). For history of former Article 2, see Registers 71, No. 30, 71, No. 47, 73, No. 36, 74, No. 1, 74, No. 9, 75, No. 30, 75, No. 48, and 76, No. 5.
2. Certificate of Compliance filed 7–29–76 (Register 76, No. 31).
3. Amendment to Section 4050 filed 7–30–76 as an emergency; effective upon filing (Register 76, No. 31).
4. Certificate of Compliance filed 10–22–76; (Register 76, No. 43).
5. Amendment of section and NOTE filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
6. Repealer filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

Subarticle 2. Title VI Procedural and Enforcement Regulations

§ 4060. Application.

The following Federal Procedural and Enforcement Regulations (Title VI, 24 C.F.R.) are reproduced for the user of these regulations.*

NOTE: Authority cited: Section 18020, Health Safety Code. Reference: Sections 18055, 18055.5, Health & Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

* NOTE: These regulations are promulgated by the United States Department of Housing and Urban Development pursuant to Title VI, 24 CFR, authority. These regulations are subject to interpretation and amendment from time to time with notice of such interpretation and amendment appearing in the Federal Register.

PART 3282

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NOTE: Authority: Sec. 625 of the National Mobile Home Construction and Safety Standards Act of 1974, Title VI of Pub. L. 93–383, 42 U.S.C. 5401, sec.7(d) of the Department of HUD Act, 42 U.S.C. 3535(d).

PART 3282

Subpart A. General and Organization

3282.1. Scope and Purpose.

(a) The National Mobile Home Construction and Safety Standards Act of 1974 (Title VI of Pub. L. 93–383, 88 Stat. 700, 42 U.S.C. 5401, et seq.) (hereinafter referred to as the Act), requires the Secretary of the Department of Housing and Urban Development to establish Federal mobile home construction and safety standards and to issue regulations to carry out the purpose of the Act. The standards promulgated pursuant to the Act appear at Part 280 of Chapter II of this title, and apply to all mobile homes manufactured for ale to purchasers in the United States on or after the effective date of the standards (June 15, 1976). A mobile home is manufactured on or after June 15, 1976, if it enters the first stage of production on or after that date.

(b) The Secretary is also authorized by the Act to conduct inspections and investigations necessary to enforce the standards, to determine that

a mobile home fails to comply with an applicable standard or contains a defect or an imminent safety hazard, and to direct the manufacturer to furnish notification thereof, and in some cases, to remedy the defect or imminent safety hazard. The purpose of this part is to prescribe procedures for the implementation of these responsibilities of the Secretary under the Act through the use of private and state inspection organizations and cooperation with State mobile home agencies. It is the policy of the Department to involve State agencies in the enforcement of the Federal mobile home standards to the maximum extent possible consistent with the capabilities of such agencies and the public interest.

3282.2. Program Implementation and Authority.

(a) The Secretary has delegated to the Assistant Secretary for Consumer Affairs and Regulatory Functions all of the authority to exercise the responsibilities of the Secretary under the Act except the power to sue and be sued.

(b) The Secretary has further authorized the Assistant Secretary to redelegate any of the delegated authority to employees of the Department.

3282.3. Establishment of Office.

There is established, as a unit subordinate to the Assistant Secretary for Consumer Affairs and Regulatory Functions, the Office of Mobile Home Standards.

3282.4. Director.

The Office of Mobile Home Standards is headed by the Director, who shall be named by the Assistant Secretary for Consumer Affairs and Regulatory Functions.

3282.5. Principal Divisions.

The following Divisions have been established within the Office of Mobile Home Standards:

(a) Standards Coordination and Liaison Division.

(b) Enforcement and State Liaison Division.

(c) Investigation and Data Collection Division.

3282.6. Separability of Provisions.

If any clause, sentence, paragraph, section or other portion of Part 3282 shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined by its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

3282.7. Definitions.

The definitions in this subpart are those common to all subparts of the regulations.

(a) "Act" means the National Mobile Home Construction and Safety Standards Act of 1974, Title VI of the Housing and Community Development Act of 1974 (42 U.S.C. 5401 et seq.).

(b) "Add–on" means any structure (except a structure designed or produced as an integral part of a mobile home) which, when attached to the basic mobile home unit, increases the area, either living or storage, of the mobile home.

(c) "Alteration" means the replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a dealer or distributor but prior to sale by a dealer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat–producing or electrical system. It includes any modification made in the mobile home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance requiring plug–in to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring "plug–in" to an electrical receptacle, which appliance was not provided with the mobile home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected.

(d) "Certification label" see "label."

(e) "Certification Report" means the report prepared by an IPIA (see definition z) for each mobile home manufacturing plant under 3282.203 in which the IPIA provides a complete description of the initial comprehensive inspection of the plant, an evaluation of the quality assurance program under the approved quality assurance manual, and the identity of the DAPIA (see definition z) which approved the designs and quality assurance manual used in the plant. Where appropriate under 3282.362(b)(5), the certification report may be made by a DAPIA.

(f) "Component" means any part, material or appliance which is built in as an integral part of the mobile home during the manufacturing process.

(g) "Cost Information" means information submitted by a manufacturer under Section 607 of the Act with respect to alleged cost increases resulting from action by the Secretary, in such form as to permit the public and the Secretary to make an informed judgment on the validity of the manufacturer's statements. Such term includes both the manufacturer's cost and the cost to retail purchasers.

(h) "Date of Manufacture" means the date on which the label required by 3282.205(c), is affixed to the mobile home.

(i) "Dealer" means any person engaged in the sale, leasing, or distribution of new mobile homes primarily to persons who in good faith purchase or lease a mobile home for purposes other than resale.

(j) "Defect" means a failure to comply with an applicable Federal mobile home safety and construction standard that renders the mobile home or any part or component thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the affected mobile home. See related definitions of "imminent safety hazard" (definition q), "noncompliance" (definition x), and "serious defect" (definition ff).

(k) "Department" means the Department of Housing and Urban Development.

(*l*) "Design" means drawings, specifications, sketches and the related engineering calculations, tests and data in support of the configurations, structures and systems to be incorporated in mobile homes manufactured in a plant.

(m) "Director" means the Director of the Office of Mobile Home Standards.

(n) "Distributor" means any person engaged in the sale and distribution of mobile homes for resale.

(o) "Failure to Conform" means an imminent safety hazard related to the standards, a serious defect, defect, or noncompliance and is used as a substitute for all of those terms.

(p) "HUD" means the Department of Housing and Urban Development.

(q) "Imminent Safety Hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to a failure to comply with an applicable Federal mobile home construction or safety standard. See related definitions of "defect" (definition j), "noncompliance" (definition x) and "serious defect" (definition ff).

(r) "Joint Monitoring Team" means a monitoring inspection team composed of personnel provided by the various State Administrative Agencies, or by HUD or its contract agent, operating under a contract with HUD for the purpose of monitoring, or otherwise aiding in the enforcement of the Federal standards.

(s) "Label" or "certification label" means the approved form of certification by the manufacturer that, under 3282.362(c)(2)(i), is permanently affixed to each transportable section of each mobile home manufactured for sale to a purchaser in the United States.

(t) "Manufacturer" means any person engaged in manufacturing or assembling mobile homes, including any person engaged in importing mobile homes for resale.

(u) "Mobile Home" means a structure, transportable in one or more sections, which when erected on site measures eight body feet or more in width and thirty–two body feet or more in length, and which is built

on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air–conditioning, and electrical systems contained therein.

(v) "Mobile Home Construction" means all activities relating to the assembly and manufacture of a mobile home including but not limited to those relating to durability, quality, and safety.

(w) "Mobile Home Safety" means the performance of a mobile home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur.

(x) "Noncompliance" means a failure of a mobile home to comply with a Federal mobile home construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard. See related definitions or "Defect" (definition j), "imminent safety hazard" (definition q), and "serious defect" (definition ff).

(y) "Owner" means any person purchasing a mobile home from any other person after the first purchase of the mobile home, in good faith, for purposes other than resale.

(z) "Primary Inspection Agency" (IPA) means a State or private organization that has been accepted by the Secretary in accordance with the requirements of Subpart H of this Part. There are two types of PIA:

(1) Design Approval PIA (DAPIA), which evaluates and approves or disapproves mobile home designs and quality control procedures, and

(2) Production Inspection PIA (IPIA), which evaluates the ability of mobile home manufacturing plants to follow approved quality control procedures and provides ongoing surveillance of the manufacturing process. Organizations may act as one or both of these types.

(aa) "Purchaser" means the first person purchasing a mobile home in good faith for purposes other than resale.

(bb) "Quality Assurance Manual" means a manual, prepared by each manufacturer for its manufacturing plants and approved by a DAPIA which contains: a statement of the manufacturer's quality assurance program, a chart of the organization showing, by position, all personnel accountable for quality assurance, a list of tests and test equipment required, a station–by–station description of the manufacturing process, a list of inspections required at each station, and a list by title of personnel in the manufacturer's organization to be held responsible for each inspection. Where necessary, the quality assurance manual used in a particular plant shall contain information specific to that plant.

(cc) "To Red Tag" means to affix a notice to a mobile home which has been found to contain an imminent safety hazard or a failure to conform with any applicable standard. A "red tag" is the notice so affixed to the mobile home.

(dd) "Secretary" means the Secretary of Housing and Urban Development.

(ee) "Secretary's Agent" means a party operating as an independent contractor under a contract with HUD.

(ff) "Serious Defect" means any failure to comply with an applicable Federal mobile home construction and safety standard that renders the mobile home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected mobile home.

(gg) "Standards" means the Federal mobile home construction and safety standards promulgated under section 604 of the Act, 42 U.S.C. 5403, as Part 280 of these regulations.

(hh) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(ii) "State Administrative Agency" (SAA) means an agency of a State which has been approved or conditionally approved to carry out the State plan for enforcement of the standards pursuant to section 623 of the Act, 42 U.S.C. 5422, and Subpart G of this part.

(jj) "State Plan Application" means the application of any State organization which is submitted to the Secretary for approval as a State Administrative Agency under Subpart G.

(kk) "System" means a set or arrangement of materials or components related or connected as to form an operating entity, i.e., heating, ventilating and air–conditioning systems, evaporative coolers.

(*ll*) "Title I" means Title I of the National Housing Act, 12 U.S.C. 1701, which authorizes HUD to insure loans made for the purchase of mobile homes that are certified as meeting HUD requirements for dwelling quality and safety.

(mm) "United States District Courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

3282.8. Applicability.

(a) Mobile Homes. This part applies to all mobile homes that enter the first stage of production on or after June 15, 1976, and to all mobile homes that enter the first stage of production before June 15, 1976, to which labels are applied under 3282.205(d).

(b) States. This Part applies to States that desire to assume responsibility under the Federal mobile home construction and safety standards enforcement program. It includes requirements which must be met in order for State agencies to be approved by the Secretary under Section 623(c) of the Act, 42 U.S.C. 5422(c). It also includes requirements for States wishing to act as primary inspection agencies, as defined in 3282.7, or to participate in monitoring activities under 3282.308.

(c) Primary Inspection and Engineering Organizations. This Part applies to each private inspection and engineering organization that wishes to qualify as a primary inspection agency under Subpart H.

(d) Mobile Home Manufacturers. This Part applies to all manufacturers producing mobile homes for sale in the United States. It includes:

(1) Inspection procedures to be carried out in the manufacturing plants.

(2) Procedures by which a manufacturer obtains approval of mobile home designs.

(3) Procedures by which a manufacturer obtains approval of manufacturing quality control and assurance programs.

(4) Procedures by which a manufacturer may obtain production inspections and certification labels for its mobile homes.

(e) Mobile Home Dealers and Distributors. This Part applies to any person selling, leasing, or distributing new mobile homes for use in the United States. It includes prohibitions of the sale of new mobile homes to which labels have not been affixed pursuant to Subpart H of these regulations or that have been altered, damaged, or otherwise caused not to be in compliance with the Federal standards.

(f) Purchasers, Owners and Consumers. This Part applies to purchasers, owners and consumers of mobile homes in that it sets out procedures to be followed when purchasers, owners and consumers complain to manufacturers, States, the Secretary or others concerning problems in mobile homes for which remedies are provided under the Act.

(g) Recreational Vehicles. Recreational vehicles do not fall within the definition of mobile homes and are not subject to these regulations. A recreational vehicle is a vehicle, regardless of size, which is not designed to be used as a permanent dwelling, and in which the plumbing, heating, and electrical systems contained therein may be operated without connection to outside utilities and which are self propelled or towed by a light duty vehicle.

(h) Imported Mobile Homes. Imported mobile homes are covered by the regulations except as modified by regulations promulgated jointly by the Secretary and the Secretary of the Treasury.

(i) Export Mobile Homes. Mobile homes intended solely for export are not governed by this Part or by Part 280 of this title if a label or tag stating that the mobile home is intended solely for export is placed on the mobile home or the outside of the container, if any, in which it is to be exported.

However, any mobile home so tagged or labeled that is not exported but is sold to a purchaser in the United States is subject to this Part and Part 280 of this title.

(j) Add–on. An add–on added by the dealer or some other party not the manufacturer (except where the manufacturer acts as a dealer) as part of a simultaneous transaction involving the sale of a new mobile home, is not governed by the standards and is not subject to these regulations. However, the addition of the add–on must not affect the ability of the basic mobile home to comply with the standards. If the addition of an add–on causes the basic mobile home to fail to conform to the standards, sale, lease, and offer for sale or lease of the home is prohibited until the mobile home is brought into conformance with the standards. While the standards do not govern add–ons, the Secretary has the authority to promulgate standards for add–ons and may do so in the future.

(k) A structure (including an expandable room, tip–out, or tag–along unit) which is designed and produced as an integral part of a mobile home when assembled on site, is governed by the standards and these regulations regardless of the dimensions of such structure.

(*l*) Multifamily Homes. Mobile homes designed and manufactured with more than one separate living unit are not covered by the standards and these regulations.

(m) Modular Homes. Modular homes that fall within the definition of "mobile home" set out at 3282.7(u) are not covered by these regulations if they are exempt from the standards under 24 C.F.R. 280.7.

3282.9. Computation of Time.

In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run, shall not be included in the computation. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. When the period of time prescribed or allowed is more than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be included in the computation. As used in this section "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States.

3282.10. Civil and Criminal Penalties.

Failure to comply with these regulations may subject the party in question to the civil and criminal penalties provided for in Section 611 of the Act, 42 U.S.C. 5410.

3282.11. Preemption and Reciprocity.

(a) No State mobile home standard regarding mobile home construction and safety which covers aspects of the mobile home governed by the Federal standards shall be established or continue in effect with respect to mobile homes subject to the Federal standards and these regulations unless it is identical to the Federal standards.

(b) No State may require, as a condition of entry into or sale in the State, that a mobile home which has been certified as in conformance with the Federal standards by the application of the label required by 3282.362(c)(2)(i) be subjected to state inspection to determine compliance with any standard covering any aspect of the mobile home covered by the Federal standard, except that a State may inspect a home to determine compliance with the Federal standard or an identical State standard if a transition certification label has been affixed to the home under 3282.207. Nor may any State require that a State label certifying conformance to the Federal standard or an identical standard be placed on the mobile home, except that such a label may be required where a transition certification label has been affixed to the home under 3282.207. Certain actions which States are permitted to take are set out in 3282.303 of Subpart G of this Part.

(c) States may participate in the enforcement of the Federal standards enforcement program under these regulations either as SAAs or PIAs or both. These regulations establish the exclusive system for enforcement of the Federal standards. No State may establish or keep in effect, through a building code enforcement system or otherwise, procedures or requirements which constitute systems for enforcement of the Federal standards or of identical State standards which are outside the system established in these regulations or which go beyond this system to require remedial actions which are not required by the Act and these regulations. However, a State may establish or continue in force consumer protections, such as warranty requirements, which do not constitute systems of enforcement of the Federal standards regardless of whether the State qualifies as an SAA or PIA.

(d) Except where a state is inspecting or providing a State label for a mobile home to which a transition certification label has been applied under 3283.207, and except where a State is providing one of the services mentioned in 3283.303, and except where a State is acting as a PIA, no State may charge a fee for any services provided under these regulations. Further, no State may charge a fee which is designed simply to replace revenues lost when this program replaces the State program or a fee which burdens interstate commerce, or a fee which, in itself or as it is administered, constitutes a system of enforcement of the Federal standards or of an identical State standard.

Subpart B. Formal Procedures

3282.51. Scope.

This subpart contains rules of procedure generally applicable to the transaction of official business under the National Mobile Home Construction and Safety Standards Act of 1974, including the rules governing public availability of information.

3282.52. Address of Communications.

Unless otherwise specified, communications shall be addressed to the Director, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

3282.53. Service of Process on Foreign Manufacturers and Importers.

(a) Designation of agent for service. Any manufacturer, before offering a mobile home for importation into the United States, shall designate an agent upon whom service of all processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturers as provided in section 612(e) of the Act and in this section. The agent may be an individual, a firm, or a domestic corporation. Changes in the designation of agents shall be made in accordance with the provisions of 3282.53(b).

(b) Form and contents of designation of agent. The designation shall be in writing, dated, and signed by the manufacturer and the designated agent. The designation shall be made in legal form required to make it valid and binding on the manufacturer under the laws, corporate by–laws, or other requirements governing the making of the designation by the manufacturer at the place and time where it is made and the person or persons signing the designation shall certify that it is so made. The designation shall disclose the full legal name, principal place of business, and mailing address of both the manufacturer and the designated agent.

(c) Method of Service. Service of any process, notice, order, requirements, or decision specified in section 612(e) of the Act may be made by registered or certified mail addressed to the agent with return receipt requested, or in any other manner authorized by law. If service cannot be effected on the designated agent for any reason, service may be made to the Secretary by registered or certified mail.

3282.54. Public Information.

(a) General. Subject to the provisions of 24 CFR Part 15 covering the production or disclosure of material or information and the provisions of 24 CFR Part 16 at 40 FR 39729 relating to the Privacy Act, and except as otherwise provided by paragraphs (b), (c), (d), and (e) of this section, the Secretary may make available to the public:

(1) Any information which may indicate the existence of an imminent safety hazard, and

(2) Any information which may indicate the failure of a mobile home to comply with applicable mobile home construction and safety standards, and

(3) Such other information as the Secretary determines is necessary to carry out the Secretary's functions under the Act.

(b) Protected Information. Data and information submitted or otherwise provided to the Secretary or an agent of the Secretary or a PIA or SAA which fall within the definitions of a trade secret or confidential commercial or financial information are exempt from disclosure under this section, only if the party submitting or providing the information so requests under paragraph (c). However, the Secretary may disclose such information to any person requesting it after deletion of the portions which are exempt, or in such combined or summary form as does not disclose the portions which are exempt from disclosure or in its entirety in accordance with section 614 of the Act, U.S.C. 5413.

(c) Obtaining Exemption. Any party submitting any information to the Secretary in any form under this Part, or otherwise in relation to the program established by the Act shall, if the party desires the information to be exempt from disclosure, at the time of submittal of the information or at any time thereafter, request that the information or any part thereof be protected from disclosure.

The request for nondisclosure shall include the basis for the request under the Act or other authority and complete justification supporting the claim that the material should be exempt from disclosure. The request should also include a statement of the information in such combined or summary form that alleged trade secrets or other protected information and the identity of the submitting party would not be disclosed. This request need not be made with respect to information which was submitted to the Secretary, an SAA or a PIA prior to the effective date of these regulations.

(d) Information submitted in opposition to action of the Secretary under Section 607(a) of the Act, 42 U.S.C. 5406(a). Notice of the availability of any information submitted under Section 607 of the Act shall be published in the Federal Register promptly after its receipt and after any determination by the Secretary regarding a manufacturer's request for exemption from disclosure under that section.

(e) Request for Information from PIAs or SAAs.Whenever a PIA or SAA receives requests for disclosure of information, it shall disclose the information unless the party from which the information was originally obtained has submitted to the PIA or SAA a request that the information not be disclosed under paragraph (c) of this section, except that the PIA or SAA shall be governed by the provisions of 24 CFR, Part 16, (Sec. 40 F.R. 39729) relating to the Privacy Act which may limit the disclosure of information. If a request for nondisclosure under paragraph (c) has been received with respect to information whose disclosure is requested, the PIA or SAA shall refer the matter to the Secretary within 5 days of the request for disclosure. If a PIA or SAA receives a request for disclosure of information related to this program, which information was submitted to the PIA or SAA prior to the effective date of these regulations, the PIA or SAA shall refer the request for nondisclosure and required information to the Secretary.

Subpart C. Rules and Rulemaking Procedures

3282.101. Scope and Purpose.

This subpart prescribes procedures that apply to the formulation, issuance, amendment and revocation of rules pursuant to the National Mobile Home Construction and Safety Standards Act of 1974. Rulemaking under the Act is also subject to the provisions of 24 CFR Part 10.

3282.102. Regulatory Docket.

Information and data deemed relevant by the Secretary relating to rulemaking actions, including notices of proposed rulemaking, comments received in response to notices, petitions for rulemaking and reconsideration, denials of petitions for rulemaking and reconsideration, and final rules are maintained by the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. All communications with respect to rulemaking shall be sent to the Rules Docket Clerk at the above address.

3282.103. Initiation of Rulemaking.

(a) The issuance, amendment or repeal of any rule may be proposed upon the initiative of the Secretary or upon the petition of any interested person showing reasonable grounds therefor.

(b) Petitions for rulemaking by interested persons.

(1) Each petition filed under this subsection:

(i) Shall set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(ii) Shall explain the interest of the petitioner in the action requested;

(iii) Shall contain any information and arguments available to the petitioner to support the action sought; and

(iv) Should be identified as a petition for rulemaking submitted under this subpart.

(2) The Secretary shall respond to a petition submitted under this section within 180 days of receipt thereof by granting or denying the petition or scheduling a public hearing or other appropriate proceeding, except that this time limit may be exceeded where necessary to assure full resolution of the issues involved on the basis of adequate information. Unless the Secretary otherwise specifies, no public hearing, argument or other proceedings shall be held on a petition before its disposition under this subsection. If the Secretary determines that the petition contains adequate justification, the Secretary shall initiate rulemaking action under this subpart. If the Secretary determines that the petition does not justify rulemaking, the Secretary shall deny the petition and notify the petitioner.

3282.104. Advance Notice of Proposed Rulemaking.

An Advance Notice of Proposed Rulemaking is a notice in which the Secretary indicates that consideration is being given to proposing a rule and through which the public is given an early opportunity to participate in decisions as to whether a rule change is necessary and what the content of the new rule should be. The Advance Notice is published in the Federal Register and it explains the possible need for rulemaking and the issues which may be involved. Where possible, it includes specific questions to which the Secretary needs answers in order to develop a proposed rule under 3282.105. The Secretary will use the Advance Notice whenever, in the judgment of the Secretary, it is appropriate and practicable in developing rules under this subpart.

3282.105. Notice of Proposed Rulemaking.

(a) A notice of proposed rulemaking shall be issued and interested persons invited to participate in the process of formulation of rules under applicable provisions of the Act, unless the Secretary, for good cause, finds that notice is impractical, unnecessary or contrary to the public interest, and incorporates that finding and a brief statement of the reasons therefor in the rule.

(b) Each notice of proposed rulemaking shall be published in the Federal Register, and shall include:

(1) A statement of the nature of the proposed rulemaking;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted;

(5) A statement of the time and place of the public rulemaking proceedings, if any.

3282.106. Participation by Interested Persons.

Any interested person may participate in the process of formulating, amending or repealing a rule by submitting comments in writing containing information, views or arguments.

3282.107. Contents of Written Comments.

Comments should be clearly organized so that the Secretary can determine which points made in the comment relate to which aspects of the proposed rule or Advanced Notice. They should include documentation of all factual assertions. It is requested, but not required, that 10 copies be submitted, incorporation of material by reference should be avoided. However, if such incorporation is necessary, the incorporated material should be identified with respect to document and page.

3282.108. Consideration of Comments Received.

All timely comments shall be considered before final action is taken on a rulemaking proposal. Comments filed late may be considered as far as practicable.

3282.109. Additional Rulemaking Proceedings.

The Secretary may initiate any further rulemaking proceedings that the Secretary finds necessary or desirable.

3282.110. Effective Date of Standards.

Each order establishing, amending or revoking a Federal mobile home construction and safety standard shall specify the date such standard is to take effect, which shall not be sooner than 180 days or later than one year after the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes the reasons for such findings.

3282.111. Petitions for Reconsideration of Final Rules.

(a) Definition. A petition for reconsideration of a final rule issued by the Secretary is a request in writing from any interested person which must be received not later than 60 days after publication of the rule in the Federal Register. The petition shall state that it is a petition for reconsideration of a final rule, and shall contain an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest. If the petitioner requests the consideration of additional facts, the petitioner shall state the reason they were not presented to be treated as petitions for rulemaking.

(b) Proceedings on Petitions for Reconsideration.The Secretary may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. The Secretary may issue a final decision on reconsideration without further proceeding, or may provide such opportunity to submit comments or information and data as the Secretary deems appropriate.

(c) Unless the Secretary determines otherwise, the filing of a petition under this section does not stay the effectiveness of the rule in question.

(d) Any party seeking to challenge any rule or regulation issued under the Act, except orders issued under section 604, 42 U.S.C. 5403, if the challenge is brought before the expiration of the 60 day period set out in paragraph (a), shall file a timely petition for reconsideration under this section prior to seeking any other remedy.

3282.112. Rulemaking on the Basis of Cost Information Submitted.

Whenever the Secretary proposes to establish, amend or revoke a standard on the basis of cost information submitted by a manufacturer in opposition to any action of the Secretary under Section 604, 42 U.S.C. 5403, or any other provision of the Act, the Secretary shall publish a notice of such proposed action and the reasons therefor in the Federal Register at least 30 days in advance of making a final determination in order to allow interested parties an opportunity to comment.

Subpart D. Hearings, Presentations of Views, and Investigations

3282.113. Interpretative Bulletins.

When appropriate, the Secretary shall issue interpretative bulletins interpreting the standards under the authority of Section 280.1(b) and (c) of this chapter or interpreting the provisions of this part. Issuance of interpretative bulletins shall be treated as rulemaking under this subpart unless the Secretary deems such treatment not to be in the public interest and the interpretation is not required by 24 CFR Part 10 or any other applicable statutes or regulations to be treated as rulemaking. All interpretative bulletins shall be indexed and made available to the public at the Office of Mobile Home Standards and a copy of the index shall be published periodically in the Federal Register.

3282.151. Applicability and Scope.

(a) This subpart sets out procedures to be followed when an opportunity to present views provided for in the Act is requested by a party entitled to one under the Act. Those situations arise whenever the Secretary contemplates injunctive action under Section 612(a), 42 U.S.C. 5410(a) of the Act, whenever the Secretary contemplates making an administrative determination of imminent safety hazard, serious defect, defect, or noncompliance under Section 615(e), 42 U.S.C. 5414(e) whenever there is a question as to who should bear the responsibility for correction under Section 615(g), 42 U.S.C. 5414(g) whenever the Secretary contemplates rejecting a State plan under Section 623(d), 42 U.S.C. 5422(d), and whenever the Secretary contemplates withdrawal of approval of a State plan under Section 623(f), 42 U.S.C. 5422(f). Section 3282.152 provides for two types or procedures which may be followed in these cases, one informal and nonadversary. It also sets out criteria to govern which type of procedure will be followed in particular cases.

(b) The procedures of 3282.152 also apply to:

(1) Proceedings held by the Secretary whenever the suspension or disqualification of a primary inspection agency, which has been granted final approval, is recommended under 3282.356 of these regulations, and

(2) Resolution of disputes where an SAA or manufacturer disagrees with a determination of a DAPIA under 3282.361 that a mobile home design does or does not conform to the standards or that a quality assurance manual is or is not adequate with a decision by an IPIA to red tag or not to red tag or to provide or not to provide a certification label for a mobile home under 3282.362 when the IPIA believes that the mobile home does or does not conform to the standards.

(c) This subpart also sets out procedures which the Secretary may follow in holding hearings and carrying out inspections and investigations authorized by Section 614(c) of the Act, 42 U.S.C. 5413(c), or otherwise. Generally, the provisions of 3282.153 apply to these proceedings, though the procedures set out in 3282.152 may also be followed, as may other procedures which the Secretary deems appropriate.

(d) The procedures set out in 3282.152 shall also be followed whenever State Administrative Agencies hold hearings or presentations of views under 3282.309.

(e) To the extent that these regulations provide for hearings or presentations of views for parties which would otherwise qualify for hearings under 24 CFR Part 24, the procedures of 24 CFR Part 24 shall not be available and shall not apply.

3282.152. Procedures for Hearings and for the Presentation of Views.

(a) Policy. All Hearings and Presentations of Views under this subpart shall be public, unless, for good cause, the Secretary determines it is in the public interest that the proceedings should be closed. If the Secretary determines that a proceeding should be closed, the Secretary shall state and make publicly available the basis for that determination.

(b) Request. Upon receipt of a request for a Hearing or Presentation of Views under this subpart, the Secretary shall either grant the relief for which the Hearing or Presentation of Views is requested or shall issue a notice under paragraph (c) of this section.

(c) Notice. When the Secretary decides to conduct a Hearing or Presentation of Views under this section, the Secretary shall provide notice as follows:

(1) Except where the need for swift resolution of the question involved prohibits it, notice of a proceeding hereunder shall be published in the Federal Register at least 10 days prior to the date of the proceeding. In any case, notice shall be provided to interested persons to the maximum extent practicable. Direct notice shall be sent by certified mail to the parties involved in the hearing.

(2) The notice, whether published or mailed, shall include a statement of the time, place and nature of the proceeding; reference to the authority under which the proceeding will be held; a statement of the subject matter of the proceeding, the parties and issues involved; and a statement of the manner in which interested persons shall be afforded the opportunity to participate in the hearing.

(3) The notice shall designate the official who shall be the presiding officer for the proceedings and to whom all inquiries should be directed concerning such proceedings.

(4) The notice shall state whether the proceeding shall be held in accordance with the provisions of paragraph (f)—(Presentation of Views) or paragraph (g)—(Hearings) of this section, except that when the Secretary makes the determinations provided for in Sections 623(d) and 624(f) of the Act, the requirements of paragraph (g) of this section shall apply. In determining whether the requirements of paragraphs (f) or (g) of this section shall apply, the Secretary shall consider the following: (i) The necessity for expeditious action; (ii) the risk of injury to affected members of the public; (iii) the economic consequences of the decisions to be rendered; and (iv) such other factors as the Secretary deems appropriate.

(d) Department Representative.If the Department is to be represented by Counsel, such representation shall be by a Department hearing attorney designated by the General Counsel.

(e) Reporting and Transcription.Oral proceedings shall be stenographically or mechanically reported and transcribed under the supervision of the presiding officer, unless the presiding officer and the parties otherwise agree, in which case a summary approved by the presiding officer shall be kept. The original transcript or summary shall be a part of the record and the sole official transcript, or summary. A copy of the transcript or summary shall be available to any person at a fee established by the Secretary, which fee the Secretary may waive in the public interest. Any information contained in the transcript or summary which would be exempt from required disclosure under 3282.54 of these regulations may be protected from disclosure if appropriate under that section upon a request for such protection under 3282.54(c).

(f) Presentation of Views.

(1) A Presentation of Views may be written or oral, and may include an opportunity for an oral presentation, whether requested or not, whenever the Secretary concludes that an oral presentation would be in the public interest, and so states in the notice. A presiding officer shall preside over all oral presentations held under this subsection. The purpose of such presentations shall be to gather information to allow fully informed decision making. Presentations of Views shall not be adversary proceedings. Oral presentations shall be conducted in an informal but orderly manner.

The presiding officer shall have the duty and authority to conduct a fair proceeding, to take all necessary action to avoid delay, and to maintain order. In the absence of extraordinary circumstances, the presiding officer at an oral Presentation of Views shall not require that testimony be given under oath or affirmation, and shall not permit either cross-examination of witnesses by other witnesses or their representatives, or the presentation of rebuttal testimony by persons who have already testified. The rules of evidence prevailing in courts of law or equity shall not control the conduct of oral presentations of views.

(2) Within 10 days after a Presentation of Views, the presiding officer shall refer to the Secretary all documentary evidence submitted, the transcript, if any, a summary of the issues involved and information presented in the Presentation of Views and the presiding official's recommendations with the rationale therefor. The presiding officer shall make any appropriate statements concerning the apparent veracity of witnesses or the validity of factual assertions which may be within the competence of the presiding officer. The Secretary shall issue a Final Determination concerning the matters at issue within 30 days of receipt of the presiding officer's summary. The Final Determination shall include: (i) a statement of findings, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or basis therefor, upon all of the material issued of fact, law, or discretion as presented on the record, and (ii) an appropriate order. Notice of the Final Determination shall be given in writing and transmitted by certified mail, return receipt requested, to all participants in the presentation of views. The Final Determination shall be conclusive, with respect to persons whose interests were represented.

(g) Hearings.

(1) A Hearing is an adversary proceeding and includes an opportunity for the oral presentation of evidence. All witnesses shall testify under oath or affirmation which shall be administered by the presiding officer. Participants shall have the right to present such oral or documentary evidence and to conduct such cross-examination as the presiding officer determines is required for a full and true disclosure of the facts. The presiding officer shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence. However, the technicalities of the rules of evidence prevailing in courts of law or equity shall not control the conduct of a hearing. The presiding officer shall take all necessary action to regulate the course of the Hearing to avoid delay and to maintain order. The presiding officer may exclude the attorney or witness from further participation in the particular Hearing and may render a decision adverse to the interests of the excluded party in his absence.

(2) Decision. The presiding officer shall make and file an initial written decision on the matter in question. The decision shall be filed within 10 days after completion of the hearing. The decision shall include: (i) a statement of findings of fact, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or basis therefor, upon all of the material issues of law or discretion presented on the record, and (ii) an appropriate order. The presiding officer's decision shall be final and shall constitute the Final Determination of the Secretary unless reversed or modified within 30 days by the Secretary. Notice of the Final Determination shall be given in writing, and transmitted by registered or certified mail, return receipt requested, to all participants in the proceeding. The Final Determination shall be conclusive with respect to persons whose interests were represented.

3282.153. Public Participation in Hearings or Presentation of Views.

(a) Any interested persons may participate in writing, in any Hearings or Presentation of Views held under the provisions of paragraphs (f) or (g) of 3282.152. The presiding officer shall consider to the extent practicable any such written materials.

(b) Any interested person may participate in the oral portion of any Hearing or Presentation of Views held under paragraphs (f) and (g) of 3282.152 unless the presiding officer determines that such participation should be limited or barred so as not to unduly prejudice the rights of the parties directly involved or unnecessarily delay the proceedings.

3282.154. Petitions for Hearings or Presentations of Views, and Requests for Extraordinary Interim Relief.

Any person entitled to a Hearing or Presentation of Views under subsection (f) or subsection (g) of 3282.152 to address issues as provided for in subsection (a) of 3282.151 may petition the Secretary to initiate such Hearing or Presentation of Views. The petition may be accompanied by a request that the Secretary provide such interim relief as may be appropriate pending the issuance of a Final Determination or Decision. No interim relief will be granted absent extraordinary cause shown. Upon re-

ceipt of a petition, the Secretary shall grant the petition and issue the notice provided for in paragraph (b) of 3282.152 for Hearing or Presentation of Views, and grant, deny or defer decision of any request for interim relief.

3282.155. Investigations.

(a) In connection with a formal investigation or inquiry involving an alleged or suspected violation or threatened violation of the Act or rules and regulations, the Secretary may permit any person to file with the Secretary a signed statement setting forth facts and circumstances known to such person and relevant to the investigation or inquiry.

(b) Subpoenas in investigations.The Secretary may issue subpoenas relating to any matter under investigation for any or all of the following reasons:

(1) Requiring testimony to be taken by interrogatories or depositions.

(2) Requiring the attendance and testimony of witnesses at a specific time and place.

(3) Requiring access to, examination of, and the right to copy documents, books, records, and papers.

(4) Requiring the production of documents, books, records, and papers at a specific time and place.

(c) Investigational hearings.For the purpose of taking the testimony of witnesses and receiving documents and other data relating to any subject under investigation, hearings may be conducted by the Secretary in the course of any investigation. These hearings shall be stenographically or mechanically reported. Testimony of witnesses shall be under oath or affirmation. Unless the Secretary determines otherwise for good cause, these hearings shall be public.

(d) Rights of witnesses in investigations.

(1) Any person compelled to testify or to submit data in connection with any investigation shall be entitled, on payment of lawfully prescribed costs, to purchase a copy of any data submitted by him and of his own testimony as stenographically or mechanically reported, except that in a nonpublic proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(2) Any witness summoned under Section 614(c)(1) of the Act shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(3) Any witness compelled to appear in person in an investigative hearing may be accompanied, represented, and advised by counsel as follows:

(i) Counsel for a witness may advise his client, in confidence, and upon initiative of either himself or the witness, with respect to any question asked of his client; and, if the witness refuses to answer a question, the counsel may briefly state on the record if he has advised his client not to answer the question and the legal grounds for such refusal.

(ii) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or it is claimed that the witness is privileged to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement and may briefly and precisely state the grounds therefor.

(iii) Objections interposed under the rules in this subpart will be continuing objections throughout the course of the proceedings, and repetitious or cumulative statement of an objection or of the grounds therefore, in such cases, is unnecessary.

(iv) Motions challenging the authority of the Secretary to conduct the investigation or the sufficiency or legality of the subpoena must be addressed to the Secretary in advance of the proceeding. Copies of such motions may be filed with the presiding official at the proceeding as part of the record of the investigation, and argument in support thereof may be allowed if it will not unduly delay the proceeding.

(v) Upon completion of the examination of a witness, counsel for the witness may request that the presiding official permit the witness to clarify any of his answers on the record in order that specified points of ambiguity, equivocation, or incompleteness may be corrected. The granting or denial of such request in whole or in part, shall be within the sole discretion of the presiding official. However, the reasons for any denial of a request shall be given by the presiding official and shall be included in the record of the proceedings.

(vi) The presiding officer shall take all necessary action to regulate the course of the proceeding to avoid delay and to maintain order. If necessary to maintain order, the presiding officer may exclude the attorney or witness from further participation in the particular investigation and may render a decision adverse to the interests of the excluded party in that party's absence.

(e) In the case of contumacy of the witness or the witness's refusal to obey a subpoena or order of the Secretary, the United States district court for the jurisdiction in which an inquiry is carried on may issue an order requiring compliance therewith; and any failure to obey the court may be punished by such court as a contempt thereof.

3282.156. Petitions for Investigations.

(a) Any person may petition the Secretary in writing to open an investigation into whether noncompliances, defects, serious defects, or imminent safety hazards exist in mobile homes. A petition shall include the reasons that the petitioner believes warrant an investigation, and it shall state any steps which have previously been taken to remedy the situation. The petition shall include all information known to the petitioner concerning the identity of mobile homes which may be affected and where those mobile homes were manufactured. The Secretary shall respond to petitions concerning alleged imminent safety hazards and serious defects within 60 days and to petitions alleging the existence of defects or noncompliances within 120 days.

(b) Any person may petition the Secretary in writing to undertake an investigation for the purpose of determining whether a primary inspection agency should be disqualified. The petition shall set out all facts and information on which the petition is based and a detailed statement of why such information justifies disqualification. The Secretary shall consider such petitions when making determinations on final acceptance and continued acceptance. The Secretary shall respond to such petition within 120 days.

Subpart E. Manufacturer Inspection and Certification Requirements

3282.201. Scope and Purpose.

(a) This subpart sets out requirements which must be met by manufacturers of mobile homes for sale to purchasers in the United States with respect to certification of mobile home designs, inspection of designs, quality assurance programs, and mobile home production, and certification of mobile homes. Other than references and a general description of responsibilities, this subpart does not set out requirements with respect to remedial actions or reports which must be taken or filed under the Act and these regulations.

(b) The purpose of this subpart is to require manufacturers to participate in a system of design approvals and inspections which serve to assist them in assuring that mobile homes which they manufacture will conform to Federal standards. Such approvals and inspections provide significant protection to the public by decreasing the number of mobile homes with possible defects in them, and provide protection to manufacturers by reducing the number of instances in which costly remedial actions must be undertaken after mobile homes are sold.

3282.202. Primary Inspection Agency Contracts.

Each manufacturer shall enter into a contract or other agreement with as many Design Inspection Primary Inspection Agencies (DAPIAs) as it wishes and with enough Production Inspection Primary Inspection Agencies (IPIAs) to provide IPIA services for each manufacturing plant as set out in this subpart and in subpart H of this Part. In return for the services provided by the DAPIAs and IPIAs, each manufacturer shall pay such reasonable fees as are agreed upon between the manufacturer and the primary inspection agency or, in the case of a State acting as an exclusive IPIA under 3282.3 such fees as may be established by the State.

3282.203. DAPIA Services.

(a) Each manufacturer shall have each mobile home design and each quality assurance manual which it intends to follow approved by a DAPIA under 3282.361. The manufacturer is free to choose which DAPIA will evaluate and approve its designs and quality assurance materials. The manufacturer may obtain design and quality assurance manual approval from a single DAPIA regardless of the number of plants in which the design and quality assurance manual will be followed. A manufacturer may also obtain approval for the same design and quality assurance manual from more than one DAPIA. The choice of which DAPIA or DAPIAs to employ is left to the manufacturer.

(b) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out design approvals. This information shall, except where the manufacturer demonstrates to the DAPIA that it is not necessary, include the following:

(1) Construction drawings and/or specifications showing structural details and layouts of frames, floors, walls and roofs, and chassis; material specifications, framing details, door locations, etc., for each floor plan proposed to be manufactured,

(2) Structural analysis and calculations, test data and/or other accepted engineering practices used by the manufacturer to validate the design,

(3) Complete heat loss calculations for each significant variation of home design,

(4) Floor plans showing room arrangement and sizes, window sizes, emergency exits and locations, locations of smoke detectors, fixed appliance range hoods, and other standard related aspects of the mobile home that can be shown on the floor plans,

(5) Diagrams of the fuel supply system, potable water system and drain, waste and vent systems. The diagrams shall specify the types of materials used, types of fittings and methods of installing required safety equipment,

(6) Wiring diagrams, including circuit allocation of electrical load and branch circuit calculations, a table of the branch circuit protection provided, the type of wiring used, and wiring methods,

(7) Details showing the design of air supply and return systems,

(8) Details of chassis construction, components, connections and running gear including rating capacities of tires,

(9) A list of fixed and portable appliances furnished with the mobile home, including type of appliance, rating of appliance, and applicable minimum and maximum performance ratings and/or energy requirements,

(10) Detailed manufacturer installation instructions including specifications and procedures for the erection and hook–up of the home at its permanent location, and

(11) Reports of all tests that were run to validate the conformance of the design to the standards.

(c) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out quality assurance manual approvals. At a minimum, this information shall include the quality assurance manual for which approval is sought. That manual shall include the manufacturer's quality assurance program, an organizational chart showing the accountability, by position, of the manufacturer's quality control personnel, a description of production tests and test equipment required for compliance with the standards, a station–by–station description of the manufacturing process, a list of quality control inspections required by the manufacturer at each station, and identification by title of each person who will be held accountable for each quality control inspection.

(d) Manufacturers may be required to furnish supplementary information to the DAPIA if the design information or the quality assurance manual is not complete or if any information is not in accordance with accepted engineering practice.

(e) When a manufacturer wishes to make a change in an approved design or quality assurance manual, the manufacturer shall obtain the approval of the DAPIA which approved the design or manual prior to production for sale. The procedures for obtaining such approval are set out in 3282.361.

(f) The information to be submitted to a DAPIA under 3282.203(b) and (c) may be prepared by the manufacturer's staff or outside consultants, including other DAPIAs. However, a DAPIA may not perform design or quality assurance manual approvals for any manufacturer whose design or manual has been created or prepared in whole or in part by members of the DAPIA's organization or of any affiliated organization.

(g) Each manufacturer shall maintain a copy of the drawings, specifications, and sketches from each approved design received from a DAPIA under 3282.361(b)(4) in each plant in which mobile homes are being produced to the design. Each manufacturer shall also maintain in each manufacturing plant a copy of the approved quality assurance manual received from a DAPIA under 3282.361(c)(3) that is being followed in the plant. These materials shall be kept current and shall be readily accessible for use by the Secretary or other parties acting under these regulations.

3282.204. IPIA Services.

(a) Each manufacturer shall obtain the services of an IPIA as set out in 3282.362 for each manufacturing plant operated by the manufacturer.

(b) The manufacturer shall make available to the IPIA operating in each of its plants a copy of the drawings and specifications from the DAPIA approved design and the quality assurance manual for that plant, and the IPIA shall perform an initial factory inspection as set out in 3282.362(b). If the IPIA issues a deviation report after the initial factory inspection, the manufacturer shall make any corrections or adjustments which are necessary to conform with the DAPIA approved designs and manuals. After the corrections required by the deviation report are completed to the satisfaction of the IPIA, the IPIA shall issue the certification report as described in 3282.362(b)(2). In certain instances a DAPIA may provide the certification report. (See 3282.362) The manufacturer shall maintain a current copy of each certification report in the plant to which the certification report relates.

(c) After the certification report has been signed by the IPIA, the manufacturer shall obtain labels from the IPIA and shall affix them to completed mobile homes as set out in 3282.362(c)(2). During the initial factory certification, the IPIA may apply labels to mobile homes which it knows to be in compliance with the standards if it is performing complete inspections of all phases of production of each mobile home and the manufacturer authorizes it to apply labels.

(d) During the course of production the manufacturer shall maintain a complete set of approved drawings, specifications, and approved design changes for the use of the IPIA's inspector and always available to that inspector when in the manufacturing plant.

(e) If, during the course of production, an IPIA finds that a failure to conform to a standard exists in a mobile home in production, the manufacturer shall correct the failure to conform in any mobile homes still in the factory and held by distributors or dealers and shall carry out remedial actions under 3282.404 and 3282.405 with respect to any other mobile homes which may contain the same failure to conform.

3282.205. Certification Requirements.

(a) Every manufacturer shall make a record of the serial number of the first mobile home started in the first station of the assembly line on June 15, 1976 and a duly authorized representative of the manufacturer shall certify that the first mobile home and all subsequent mobile homes in the sequence of production manufactured on or after June 15, 1976, have been constructed in accordance with the Federal standards. The manufacturer shall furnish a copy of that certification to the IPIA for the purpose of determining which mobile homes are subject to the notification and correction requirements of subpart I of these regulations. If the manufacturer does not have the services of an IPIA and is using transition certification labels under 3282.207, it shall keep a certified record of mobile homes produced on or after June 15, 1976, and furnish that record to the IPIA that performs the first plant approval or the Secretary if the manufacturer discontinues production at the expiration of the transition period.

(b) Every manufacturer of mobile homes shall certify on the data plate as set out in Section 280.5 of Chapter II of 24 CFR and 3282.362(c)(3) that the mobile home is designed to comply with the Federal mobile home construction and safety standards in force at the time of manufacture in addition to providing other information required to be completed on the data plate.

(c) Every manufacturer of mobile homes shall furnish to the dealer or distributor of each such mobile home produced by such manufacturer a certification that such mobile home, to the best of the manufacturer's knowledge and belief, conforms to all applicable Federal construction and safety standards. Such certification shall be in the form of the label provided by the IPIA under 3282.362(c)(2), except when the manufacturer provides the label under 3282.207. Such labels shall be affixed only at the end of the last stage of production of the mobile home.

(d) The manufacturer shall apply a label required or allowed by these regulations only to mobile homes that it knows by its inspections to be in compliance with the standards. The manufacturer shall affix the transition certification label allowed by 3282.207 only to mobile homes that enter the first stage of production on or after June 15, 1976. The manufacturer may affix the label described in 3282.362(c)(2) to mobile homes that enter the first stage of production prior to June 15, 1976, only under all of the following circumstances.

(1) No such labels are affixed to any mobile homes prior to June 15, 1976.

(2) The labels are obtained only through the procedures set forth in subpart H of this part pursuant to the full range of services provided by primary inspection agencies.

(3) The manufacturer keeps a record of all mobile homes that enter the first stage of production prior to June 15, 1976, and to which labels are affixed under this provision.

(4) The manufacturer certifies the accuracy of the record required under paragraph (d)(3), immediately above, and provides a copy of that certification to the IPIA that provides production inspections in that plant in which those mobile homes are manufactured.

(5) The manufacturer pays the monitoring inspection fee required by 3282.210 for each mobile home to which a label is affixed under this provision.

(6) The manufacturer agrees that all mobile homes that it labels under this provision shall be subject to the requirements of the Act and these regulations, and particularly to the remedial provisions of subpart I of this part.

(7) The manufacturer obtains the agreement of the State in which the mobile homes are manufactured that the State will accept such mobile homes as if they had entered into the first stage of production on or after June 15, 1976, including agreement by the State not to require any State label for such mobile homes and not to require any inspections or charge any fees that would not be allowed with respect to mobile homes that enter the first stage of production on or after June 15, 1976.

(8) No other label relating to any aspects of the mobile home covered by the Federal standards is affixed to the mobile homes.

3282.206. Disagreement with IPIA or DAPIA.

Whenever a manufacturer disagrees with a finding by a DAPIA or an IPIA acting in accord with subpart H of this Part, the manufacturer may request a hearing or presentation of views as provided in 3282.152. The manufacturer shall not, however, produce mobile homes pursuant to designs which have not been approved by a DAPIA or produce mobile homes which the relevant IPIA believes not to conform to the standards unless and until: (a) the Secretary determines that the manufacturer is correct in believing the design of the mobile home conforms to the standards; or (b) extraordinary interim relief is granted under 3282.154; or (c) the DAPIA or IPIA otherwise resolves the disagreement. These prohibitions shall not apply to manufacturers acting under the transition certification program set out in 3282.207.

3282.207. Transition Certification Program.

(a) If a manufacturer cannot contract for the services of a DAPIA or IPIA such manufacturer shall notify the Secretary and any State with an approved SAA into which it intends to ship mobile homes that it will apply transition certification labels under this section to a specified number of mobile homes for a specified period of time until it can obtain the necessary PIA services. The use of transition certification labels shall be limited to the time required to obtain PIA services, and in no case shall it extend beyond 90 days after the effective date of the standards. The manufacturer may continue to use certification labels during this 90 day period only if it is acting diligently to obtain necessary PIA services as quickly as possible. The Secretary may monitor manufacturers' performance under this section.

(b) Mobile homes bearing a transition certification label may be subject to such reasonable inspections and reasonable inspection fees as States may require, though no State may require any design approval or require a mobile home to meet a standard other than the Federal standard. A State may prohibit the entry into or sale in the State of a mobile home certified under this subsection if the State has inspected the mobile home and found a failure to conform to the federal standards. If a State, through inspections under this subsection, finds that a manufacturer or a particular plant is consistently producing homes which fail to conform to the standard, the State shall so inform the Secretary, who shall take appropriate action; including seeking injunctive relief to halt production, if necessary. A State may not prohibit entry into or sale in the State of a mobile home unless the State has inspected that home and found a failure to conform.

(c) A manufacturer acting under this section is not subject to the labeling provisions of 3282.362(c)(2) of this part or Section 280.7 of Part 280 of Chapter II of 24 CFR.

(d) Transition certification labels shall be handled as follows:

(1) The transition certification label shall be 1 1/2 in. by 4 in. in size and shall either be typed on a piece of paper hermetically sealed between two pieces of plastic with a 1/4 in. border of clear plastic around the paper, or printed on adhesive backed aluminum foil. The paper sealed in plastic shall be permanently attached to the mobile home by means of 4 blind rivets, drive screws, or other means that render it difficult to remove without being defaced. The adhesive backed foil shall be permanently attached to the mobile home by placing it on a surface which is suitable for the adhesive. The label number shall be a sequential 4 digit number which the manufacturer shall type sequentially on each label used.

(2) The transition certification label shall be supplied by the manufacturer and located as specified in 3282.362(c)(2)(i)(E).

(3) Transition certification labels that are damaged, destroyed, or otherwise made illegible or removed may be replaced by the manufacturer with new transition certification labels of a different serial number. They shall not be replaced by labels of the type described in 3282.361(c).

(4) The wording of the transition label shall be as follows: AS EVIDENCED BY THIS LABEL NO. XXX (THE MANUFACTURER'S NAME) CERTIFIES THAT, TO THE BEST OF HIS KNOWLEDGE AND BELIEF, THIS MOBILE HOME IS IN COMPLIANCE WITH THE FEDERAL MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS IN EFFECT ON THE DATE OF MANUFACTURE. SEE DATA PLATE.

(e) The manufacturer shall furnish a data plate as specified in 3282.362(c)(3), except that after "design approval by," the manufacturer shall insert the term "none."

(f) The manufacturer acting under this section shall submit copies of designs to the Secretary or the Secretary's agent. Authority: Section 625 of the National Mobile Home Construction and Safety Standards Act of 1974, 42 USC 5424, and section 7(d), Department of Housing and Urban Development Act, 42 USC 3535(d).

3282.208. Remedial Actions—General Description.

(a) Notification.A manufacturer may be required to provide formal notice to mobile home owners and dealers, as set out in subpart I of this Part, if the manufacturer, the Secretary, or a State Administrative Agency determines under that subpart that an imminent safety hazard, serious defect, defect, or noncompliance exists or may exist in a mobile home produced by that manufacturer.

(b) Correction.A manufacturer may be required to correct imminent safety hazards and serious defects which the manufacturer or the Secretary determines under subpart I exist in mobile homes produced by the manufacturer. This correction would be carried out in addition to the sending of formal notice as described in paragraph (a).

(c) Cooperation. The manufacturer shall be responsible for working with the DAPIA, IPIA, any SAA, the Secretary, and the Secretary's agent as necessary in the course of carrying out investigations and remedial actions under subpart I.

(d) Avoidance of Formalities.The provisions for notification and required correction outlined in paragraphs (a) and (b) of this section and described more fully in subpart I may be waived or avoided in certain circumstances under that subpart.

3282.209. Report Requirements.

The manufacturer shall submit reports to the PIAs, SAAs, and the Secretary as required by subpart L of these regulations.

3282.210. Payment of Monitoring Fee.

(a) Each manufacturer shall pay the monitoring fee established under 3282.455 and 3282.307 for each mobile home which it manufactures under the Federal standards.

(b) The monitoring fee shall be paid in the form of a check made payable to the Secretary or the Secretary's agent as follows:

(1) When the first set of labels is obtained from an IPIA under 3282.362(c)(2), the manufacturer shall give to the IPIA the required check in the amount of the number of labels received plus the number of mobile homes to which transition certification labels have been applied multiplied by the amount of the fee per mobile home.

(2) When the second set of labels is obtained, the manufacturer shall pay an amount equal to the number of labels received multiplied by the amount of the fee per mobile home, except that the manufacturer shall receive a credit equal to the amount paid by the manufacturer in the first payment which was greater than the amount determined by the number of mobile homes to which the labels were applied multiplied by the amount of the fee per mobile home. This credit results because the monitoring inspection fee is to be paid for each mobile home rather than for each transportable section of a mobile home.

(3) Each time a set of labels is obtained, the manufacturer shall make a payment as determined in paragraph (2) above, and if a credit is greater than the amount to be paid, the credit shall carry over until it is exhausted.

3282.211. Record of Purchasers.

(a) Information requirements for purchasers.

(1) Every manufacturer of mobile homes shall, for each mobile home manufactured under the Federal standards, provide with the mobile home a booklet containing at least 3 detachable cards as described in paragraph (a)(2) of this section. On the front of the booklet, in bold faced type, shall be printed the following language:

"Keep this booklet with your mobile home.

Title VI of the Housing and Community Development Act of 1974 provides you with protection against certain construction and safety hazards in your mobile home. To help assure your protection, the manufacturer of your mobile home needs the information which these cards, when completed and mailed, will supply. If you bought your home from a dealer, please be sure that your dealer has completed and mailed a card for you. If you acquired your home from someone who is not a dealer, you should promptly fill out and send a card to the manufacturer. It is important that you keep this booklet and give it to any person who buys the mobile home from you."

(2) The detachable cards shall contain blanks for the following information:

(i) Name and address of the dealer or other person selling the mobile home to the purchaser;

(ii) Name and complete mailing address of the mobile home purchaser;

(iii) Address where the mobile home will be located, if not the same as item (ii);

(iv) Date of sale to the purchaser;

(v) Month, day and year of manufacture;

(vi) Identification number of the mobile home;

(vii) Model and/or type designation of the mobile home as provided by the manufacturer; and

(viii) A designation of the zones for which the mobile home is equipped, as set forth in Section 280.305 of Chapter II of this title.

Additionally, the cards shall have the name and address of the manufacturer printed clearly on the reverse side and shall contain adequate postage or business reply privileges to ensure return to the manufacturer. The manufacturer shall have the responsibility for filling in the blanks on the cards for items (v), (vi), (vii), and (viii).

(3) The manufacturer shall maintain all cards received so that the manufacturer has a readily accessible record of the current purchaser or owner and the current address of all mobile homes manufactured by it for which a card has been received.

Subpart F. Dealer and Distributor Responsibilities

3282.251. Scope and Purpose.

(a) This subpart sets out the responsibilities which shall be met by distributors and dealers with respect to mobile homes manufactured after the effective date of the standards for sale to purchasers in the United States. It prohibits the sale, lease, or offer for sale or lease of mobile homes known by the distributor or dealer not to be in conformance with the standards, and it includes responsibilities for maintaining certain records and assisting in the gathering of certain information.

(b) The purpose of this subpart is to inform distributors and dealers when they may sell mobile homes, when they are prohibited from selling mobile homes, and what they may do in order to prepare a mobile home for sale if it is not in conformance with the standards.

(c) For purposes of this Part, any manufacturer or distributor who sells, leases, or offers for sale or lease a mobile home to a purchaser shall be a dealer for purposes of that transaction.

3282.252. Prohibition of Sale.

(a) No distributor or dealer shall make use of any means of transportation affecting interstate or foreign commerce or the mails to sell, lease, or offer for sale or lease in the United States any mobile home manufactured on or after the effective date of an applicable standard unless:

(1) There is affixed to the mobile home a label certifying that the mobile home conforms to applicable standard as required by 3282.205(c), and

(2) The distributor or dealer, acting as a reasonable distributor or dealer, does not know that the mobile home does not conform to any applicable standards.

(b) This prohibition applies to any affected mobile homes until the completion of the entire sales transaction. A sales transaction with a purchaser is considered completed when all the goods and services that the dealer agreed to provide at the time the contract was entered into have been provided. Completion of a retail sale will be at the time the dealer completes set–up of the mobile home if the dealer has agreed to provide the set–up, or at the time the dealer delivers the home to a transporter, if the dealer has not agreed to transport or set up the mobile home, or to the site if the dealer has not agreed to provide set–up.

(c) This prohibition of sale does not apply to mobile homes which are placed in production prior to the effective date of the standards, and it does not apply to "used" mobile homes which are being sold or offered for sale after the first purchase in good faith for purposes other than the resale.

3282.253. Removal of Prohibition of Sale.

(a) If a distributor or dealer has a mobile home in its possession or a mobile home with respect to which the sales transaction has not been completed, and the distributor or dealer, acting as a reasonable distributor or dealer, knows as a result of notification by the manufacturer or otherwise that the mobile home contains a failure to conform or imminent safety hazard, the distributor or dealer may seek the remedies available to him under 3282.415.

(b) When, in accordance with 3282.415, a manufacturer corrects a failure to conform to the applicable standard or an imminent safety hazard, the distributor or dealer, acting as a reasonable distributor or dealer, may accept the remedies provided by the manufacturer as having corrected the failure to conform or imminent safety hazard. The distributor or dealer, therefore, may sell, lease, or offer for sale or lease any mobile home so corrected by the manufacturer.

(c) When a distributor or dealer is authorized by a manufacturer to correct a failure to conform to the applicable standard or an imminent safety hazard and completes the correction in accordance with the manufacturer's instructions, the distributor or dealer may sell, lease or offer for sale or lease the mobile home in question, provided that the distributor or dealer, acting as a reasonable distributor or dealer knows that the mobile home conforms to the standards. A distributor or dealer and a manufacturer, at the manufacturer's option, may agree in advance that the distributor or dealer is authorized to make such corrections as the manufacturer believes are within the expertise of the dealer.

(d) If the corrections made under paragraphs (b) and (c) of this section do not bring the mobile home into conformance or correct the imminent safety hazard, the provisions of 3282.415 will continue in effect prior to completion of the sales transaction.

3282.254. Distributor and Dealer Alterations.

(a) If a distributor or dealer alters a mobile home in such a way as to create an imminent safety hazard or to create a condition which causes a failure to conform with applicable Federal standards, the mobile home affected may not be sold, leased, or offered for sale or lease.

(b) After correction by the distributor or dealer of the failure to conform or imminent safety hazard, the corrected mobile home may be sold, leased, or offered for sale or lease.

(c) Distributors and dealers shall maintain complete records of all alterations made under paragraphs (a) and (b) of this section.

3282.255. Completion of Information Card.

(a) Whenever a distributor or dealer sells a mobile home subject to the standards to a purchaser, the distributor or dealer shall fill out the card with information provided by the purchaser and shall send the card to the manufacturer. (See 3282.211)

(b) Whenever a distributor or dealer sells a mobile home to an owner which was originally manufactured under the standards, the distributor or dealer shall similarly use one of the detachable cards which was originally provided with the mobile home. If such a card is no longer available, the distributor or dealer shall obtain the information which the card would require and send it to the manufacturer of the mobile home in an appropriate format.

3282.256. Distributor or Dealer Complaint Handling.

(a) When a distributor or dealer believes that a mobile home in its possession which it has not yet sold to a purchaser contains an imminent safety hazard, serious defect, defect, or noncompliance, the distributor or dealer shall refer the matter to the manufacturer for remedial action under 3282.415. If the distributor or dealer is not satisfied with the action taken by the manufacturer, it may refer the matter to the SAA in the state in which the mobile home is located, or to the Secretary if there is no such SAA.

(b) Where a distributor or dealer receives a consumer complaint or other information concerning a mobile home sold by the distributor or dealer, indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance in the mobile home, the distributor or dealer shall refer the matter to the manufacturer.

Subpart G. State Administrative Agencies

3282.301. General—Scope.

This subpart sets out procedures to be followed and requirements to be met by States which wish to participate as State Administrative Agencies (SAA) under the Federal standards enforcement program. Requirements relating to States which wish to participate as primary inspection agencies under the Federal standards enforcement program are set out in Subpart H of this part. Requirements which States must meet in order to receive full or conditional approval as SAAs and the responsibilities of such agencies are set out in 3282.302. Reporting requirements for approved and conditionally approved SAAs are set out in Subpart L.

3282.302. State Plan.

A State wishing to qualify and act as a SAA under this subpart shall make a State Plan Application under this section. The State Plan Application shall be made to the Director, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, and shall include:

(a) An original and one copy of a cover sheet which shall show the following:

(1) The name and address of the State agency designated as the sole agency responsible for administering the plan throughout the state,

(2) The name of the administrator in charge of the agency,

(3) The name, title, address, and phone number of the person responsible for handling consumer complaints concerning standards related problems in mobile homes under subpart I of this part,

(4) A list of personnel who will carry out the State Plan,

(5) The number of mobile home manufacturing plants presently operating in the State,

(6) The estimated total number of mobile homes manufactured in the State per year,

(7) The estimated total number of mobile homes set up in the State per year, and

(8) A certification signed by the administrator in charge of the designated State agency stating that, if it is approved by the Secretary, the State plan will be carried out in full, and that the regulations issued under the Act shall be followed.

(b) An original and one copy of appropriate materials which:

(1) Demonstrate how the designated State agency shall assure effective handling of consumer complaints and other information referred to it that relate to noncompliances, defects, serious defects, and imminent safety hazards as set out in subpart I of this Part, including the holding of hearings and presentations of views and the fulfilling all other responsibilities of SAAs as set out in that subpart I,

(2) Provide that personnel of the designated agency shall, under State law or as agents of HUD, have the right at any reasonable time to enter and inspect all factories, warehouses, or establishments in the State in which mobile homes are manufactured,

(3) Provide for the imposition under State authority of civil and criminal penalties which are identical to those set out in Section 611 of the Act, 42 USC 5410, except that civil penalties shall be payable to the State rather than to the United States,

(4) Provide for the notification and correction procedures under subpart I of this Part where the State Administrative Agency is to act under that subpart by providing for and requiring approval by the State Administrative Agency of the plan for notification and correction described in 3282.410, including approval of the number of units that may be affected and the proposed repairs, and by providing for approval of corrective actions where appropriate under subpart I,

(5) Provide for oversight by the SAA of (i) remedial actions carried out by manufacturers for which the SAA approved the plan for notification or correction under 3282.405, or 3282.407, or for which the SAA has waived formal notification under 3282.405 or 3282.407, and (ii) a man-

ufacturer's handling of consumer complaints and other information under 3282.404 as to plants located within the State,

(6) Provide for the setting of monitoring inspection fees in accordance with guidelines established by the Secretary and provide for participation in the fee distribution system set out in 3282.307,

(7) Contain satisfactory assurances in whatever form is appropriate under State law that the designated agency has or will have the legal authority necessary to carry out the State plan as submitted for full or conditional approval,

(8) Contain satisfactory assurances that the designated agency has or will have, in its own staff or provided by other agencies of the State or otherwise, the personnel, qualified by education or experience necessary to carry out the State plan,

(9) Include the resumes of administrative personnel in policy making positions and of all inspectors and engineers to be utilized by the designated agency in carrying out the State plan,

(10) Include a certification that none of the personnel who may be involved in carrying out the State plan in any way are subject to any conflict of interest of the type discussed in 3282.359 or otherwise, except that members of councils, committees, or similar bodies providing advice to the designated agency are not subject to the requirement,

(11) Include an estimate of the cost to the State of carrying out all activities called for in the State plan, under this section and 3282.303, which estimate shall be broken down by particular function and indicate the correlation between the estimate and the number of mobile homes manufactured in the State and the number of mobile homes imported into the State, and the relationship of these factors to any fees currently charged and any fees charged during the preceding two calendar years. A description of all current and past State activities with respect to mobile homes shall be included with this estimate,

(12) Give satisfactory assurances that the State shall devote adequate funds to carrying out its State plan,

(13) Indicate that State Law requires manufacturers, distributors, and dealers in the State to make reports pursuant to Section 614 of the Act 42 U.S.C. 5413 and this chapter of these regulations in the same manner and to the same extent as if the State plan were not in effect,

(14) Provide that the designated agency shall make reports to the Secretary as required by subpart L of this Part in such form and containing such information as the Secretary shall from time to time require.

(c) A State plan may be given conditional approval if all of the requirements of the previous paragraphs except (b)(2), (b)(3), (b)(6), or (b)(13) are met. When conditional approval is given, the State shall not be considered approved under Section 623 of the Act, 42 U.S.C. 5422, but it will participate in all phases of the program as called for in its State plan. Conditional approval shall last a maximum of three years, by which time all requirements shall have been met for full approval, or conditional approval shall lapse.

(d) If a State wishes to discontinue participation in the Federal enforcement program as an SAA, it shall provide the Secretary with a minimum of 90 days notice.

(e) A State which wishes to act as an exclusive IPIA under 3282.352 shall so indicate in its State plan, and shall include in the information provided under subsection (b)(11) of this section, the fee schedule for its activities as an IPIA and the relationship between the proposed fees and the other information provided under that subsection.

The State shall submit to the Secretary before June 15, 1976, a Statement of its intent to act as an exclusive IPIA. It shall also submit its State Plan Application no later than July 15, 1976. The State shall also demonstrate in its State Plan Application that it has the present capability to act as an IPIA for all plants operating in the State. Where the intent to act as an exclusive IPIA is not indicated by June 15, 1976, the State may not act as an exclusive IPIA act for three years, from that date. A state so precluded may apply for exclusive IPIA status as of June 15, 1979. Where the State does not demonstrate that it has the present capability to act as an exclusive IPIA the State shall also be so precluded, unless the Secretary determines in the public interest that the State has an acceptable plan for meeting this requirement, in which case the State may act as an exclusive IPIA only when it has the required capability. If the Secretary determines that the fees to be charged by a State acting as an IPIA are unreasonable, the Secretary shall not grant the State status as an exclusive IPIA.

3282.303. State Plan—Suggested Provisions.

The following are not required to be included in the State plan, but they are urged as necessary to provide full consumer protection and assurance of mobile home safety:

(a) Provision for monitoring of dealers' lots within the State for transit damage, seal tampering, and dealer performance generally,

(b) Provision of approvals of all alterations made to certified mobile homes by dealer in the State. Under this program, the State would assure that alterations did not result in the failure of the mobile home to comply with the standards,

(c) Provision for monitoring of the installation of mobile homes set up in the State to assure that the homes are properly installed and, where necessary, tied down,

(d) Provision for inspection of used mobile homes and requirements under State authority that used mobile homes meet a minimal level of safety and durability at the time of sale, and,

(e) Provision for regulation of mobile home transportation over the road to the extent that such regulation is not preempted by Federal authority.

3282.304. Inadequate State Plan.

If the Secretary determines that a State plan submitted under this subpart is not adequate, the designated State agency shall be informed of the additions and corrections required for approval. A revised State plan shall be submitted within 30 days of receipt of such determination. If the revised State plan is inadequate or if the State fails to resubmit within the 30 day period or otherwise indicates that it does not intend to change its State plan as submitted, the Secretary shall notify the designated State agency that the State plan is not approved and that it has a right to a hearing on the disapproval in accordance with Subpart D of this Part.

3282.305. State Plan Approval.

The Secretary's approval or conditional approval of a State Plan Application shall qualify that State to perform the functions for which it has been approved.

3282.306. Withdrawal of State Approval.

The Secretary shall, on the basis of reports submitted by the State, and on the basis of HUD monitoring, make a continuing evaluation of the manner in which each State is carrying out its State plan and shall submit the reports of such evaluation to the appropriate committees of the Congress. Whenever the Secretary finds, after affording due notice and opportunity for a hearing in accordance with Subpart D of this Part, that in the administration of the State program there is a failure to comply substantially with any provision of the State plan or that the State plan has become inadequate, the Secretary shall notify the State of withdrawal of approval or conditional approval of the State program. The State program shall cease to be in effect at such time as the Secretary may establish.

3282.307. Monitoring Inspection Fee Establishment and Distribution.

(a) Each approved State shall establish a monitoring inspection fee in an amount established by the Secretary. This monitoring inspection fee shall be an amount paid by each mobile home manufacturer in the State for each mobile home produced by the manufacturer in that State. In non-approved and conditionally-approved States, this monitoring inspection fee shall be set by the Secretary.

(b) The monitoring inspection fee shall be paid by the manufacturer to the Secretary or the Secretary's agent, who shall distribute the fees collected from all mobile home manufacturers among the approved and conditionally-approved States based on the number of new mobile homes whose first location after leaving the manufacturing plant is on the prem-

ises of distributor, dealer, or purchaser in that State, and the extent of participation of the State in the joint team monitoring program set out in 3282.309(a).

3282.308. State Participation in Monitoring of Primary Inspection Agencies.

(a) An SAA may provide personnel to participate in joint team monitoring of primary inspection agencies as set out in Subpart J. If an SAA wishes to do so, it must include in its State plan a list of what personnel would be supplied for the teams, their qualifications, and how many person–years the State would supply. All personnel will be subject to approval by the Secretary or the Secretary's agent. A person–year is 2,080 hours of work.

(b) If an SAA wishes to monitor the performance of primary inspection agencies acting within the State, it must include in its State plan a description of how extensively, how often, and by whom this will be carried out. This monitoring shall be coordinated by the Secretary, or the Secretary's agent with monitoring carried out by joint monitoring teams, and in no event shall an SAA provide monitoring where the State is also acting as a primary inspection agency.

3282.309. Hearings and Presentations of Views Held by SAAs.

(a) When an SAA is the appropriate agency to hold a hearing or presentation of views under 3282.407 of subpart I, the SAA shall follow the procedures set out in 3282.152 and 3282.153, with the SAA acting as the Secretary otherwise would under that section. Where 3282.152 requires publication of notice in the Federal Register, the SAA shall, to the maximum extent possible, provide equivalent notice throughout the state by publication in a newspaper or newspapers having state–wide coverage or otherwise. The determination of whether to provide a presentation of views under 3282.153(f) or a hearing section under 3282.152(g) is left to the SAA.

(b) Notwithstanding the provisions of 3282.152(f)(2) and (g)(2) relating to the conclusive effect of a final determination, any party, in a proceeding held at an SAA under this section, including specifically the owners of affected mobile homes, States in which affected mobile homes are located, consumer groups representing affected owners and manufacturers (but limited to parties with similar substantial interest) may appeal to the Secretary in writing any Final Determination by an SAA which is adverse to the interest of that party. This appeal on the record shall be made within 30 days of the date on which the Final Determination was made by the SAA.

Subpart H. Primary Inspection Agencies

3282.351. General.

(a) This subpart sets out the requirements which must be met by States or private organizations which wish to qualify as primary inspection

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agencies under these regulations. It also sets out the various functions which will be carried out by primary inspection agencies.

(b) There are four basic functions which are performed by primary inspection agencies:

(1) approval of the manufacturer's mobile home design to assure that it is in compliance with the standard, (2) approval of the manufacturer's quality control program to assure that it is compatible with the design (3) approval of the manufacturer's plant facility and manufacturing process to assure that the manufacturer can perform its approved quality control program and can produce mobile homes in conformance with its approved design, and (4) performance of ongoing inspections of the manufacturing process in each manufacturing plant to assure that the manufacturer is continuing to perform its approved quality control program and, with respect to those aspects of mobile homes inspected, is continuing to produce mobile homes in performance with its approved designs and in conformance with the standards (see 328 2.362(c)(1)).

(c) There are two types of primary inspection agencies which perform these functions:

(1) those which approve designs and quality control programs (Design Approval Primary Inspection Agencies—DAPIAs) and

(2) those which approve plants and perform ongoing inspections in the manufacturing plants (Production Inspection Primary Inspection Agencies—IPIAs).

(d) States and private organizations whose submissions under this subpart are acceptable shall be granted provisional acceptance. Final acceptance shall be conditioned upon adequate performance, which will be determined through monitoring of the actions of the primary inspection agencies. Monitoring of all primary inspection agencies shall be carried out as set out in Subpart J. HUD accepted agencies can perform DAPIA functions for any manufacturer in any State and IPIA functions in any State except those in which the State has been approved to act as the exclusive IPIA under 3282.352.

(e) Primary inspection agencies approved under this subpart may contract with mobile home manufacturers (see 3282.202) to provide the services set out in this subpart. Any PIA which charges fees which are excessive in relation to the services rendered shall be subject to disqualification under 3282.356.

3282.352. State Exclusive IPIA Functions.

(a) Any State which has an approved State Administrative Agency may, if accepted as an IPIA, act as the exclusive IPIA within the State. A State which acts as an IPIA but is not approved as an SAA may not act as the exclusive IPIA in the State. A State which acts as an exclusive IPIA shall be staffed to provide IPIA services to all manufacturers within the state and may not charge unreasonable fees for those services.

(b) States which wish to act as exclusive IPIAs shall apply for approval to do so in their State plan applications. They shall specify the fees they will charge for IPIA services and shall submit proposed fee revisions to the Secretary prior to instituting any change in fees. If at any time the Secretary finds that those fees are not commensurate with the fees generally being charged for similar services, the Secretary will withhold or revoke approval to act as an exclusive IPIA. States acting as DAPIAs and also as exclusive IPIAs shall establish separate fees for the two functions and shall specify what additional services (such as approval of design changes and full time inspections) these fees cover. As provided in 3282.302(b)(II), each State shall submit fee schedules for its activities and, where appropriate, the fees presently charged for DAPIA and IPIA services, and any fees charged for DAP IA and IPIA services during the preceding two calendar years.

(c) A State's status as an exclusive IPIA in the State shall commence upon approval of the State Plan Application and acceptance of the State's submission under 3282.355, except as provided herein. Where a State was approved to provide IPIA functions under the Title I program, the State's status as an exclusive IPIA shall commence on the date the State submits to the Secretary a statement that it intends to act as an exclusive IPIA, but only if it affirms that the State has the present capacity to provide IPIA services for all manufacturing plants in the State. If the State indicates its desire to act as an exclusive IPIA, though it does not have the present capacity to do so, but affirms that it will within 90 days have the capacity to provide IPIA services to all manufacturers in the State, then the State's status as an exclusive IPIA shall commence on the date the state affirms it will have such capacity. Continuation of such a State's status as an exclusive IPIA is conditioned upon submittal of the State Plan Application as required by 3282.302(e) and upon final approval of that application. It is also conditioned upon the State adequately fulfilling its affirmation to provide IPIA services to all manufacturing plants in the State. Where a private organization accepted or provisionally accepted as an IPIA under this Subpart operating in a manufacturing plant within the State on the date the State's status as an exclusive IPIA would commence under this paragraph, the organization may provide IPIA services in that plant for 90 days after that date.

3282.353. Submission Format.

States and private organizations which wish to act as primary inspection agencies shall submit to the Director, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh St., S.W., Washington, D.C. 20410, an application which includes the following:

(a) A cover sheet which shall show the following:

(1) Name and address of the party making the application;

(2) The capacity (DAPIA, IPIA) in which the party wishes to be approved to act;

(3) A list of the key personnel who will perform the various functions required under these regulations;

(4) The number of mobile home manufacturers and manufacturing plants for which the submitting party proposes to act in each of the capacities for which it wishes to be approved to act;

(5) The estimated total number of mobile homes produced by those manufacturers and in those plants per year;

(6) The number of years the proposed primary inspection agency has been actively engaged in the enforcement of mobile home standards;

(7) A certification by the party applying that it will follow the Federal Mobile Home Construction and Safety Standards set out at 24 CFR Part 280 and any interpretations of those standards which may be made by the Secretary; and

(8) Whether the submitting party is approved to act as a primary inspection agency under the Title I program, and if so, in what capacity.

(b) A detailed schedule of fees to be charged broken down by the services for which they will be charged.

(c) A detailed description of how the submitting party intends to carry out all of the functions for which it wishes to be approved under this subpart, with appropriate cross-references to sections of this subpart, including examples and complete descriptions of all reports, tests, and evaluations which the party would be required to make. Where appropriate, later sections of this subpart identify particular items which must be included in the submission. The Secretary may request further detailed information, when appropriate.

(d) A party wishing to be approved as a DAPIA shall submit a copy of a mobile home design that it has approved (or if it has not approved a design, one that it has evaluated and a deviation report showing where the design is not in conformance with the standards) and a copy of a quality assurance manual that it has approved (or if it was not approved a manual, one that it has evaluated and a deviation report showing where the manual is inadequate).

(e) A party wishing to be approved as an IPIA shall submit a copy of a certification report which it has prepared for a mobile home plant or, if it has not prepared such a report, an evaluation of a manufacturing plant which it has inspected with a description of what changes shall be made before a certification report can be issued. A party that has not previously inspected mobile homes may nevertheless be accepted on the basis of the qualifications of its personnel and its commitment to perform the required functions.

agencies under these regulations. It also sets out the various functions which will be carried out by primary inspection agencies.

(b) There are four basic functions which are performed by primary inspection agencies:

(1) approval of the manufacturer's mobile home design to assure that it is in compliance with the standard, (2) approval of the manufacturer's quality control program to assure that it is compatible with the design (3) approval of the manufacturer's plant facility and manufacturing process to assure that the manufacturer can perform its approved quality control program and can produce mobile homes in conformance with its approved design, and (4) performance of ongoing inspections of the manufacturing process in each manufacturing plant to assure that the manufacturer is continuing to perform its approved quality control program and, with respect to those aspects of mobile homes inspected, is continuing to produce mobile homes in performance with its approved designs and in conformance with the standards (see 328 2.362(c)(1)).

(c) There are two types of primary inspection agencies which perform these functions:

(1) those which approve designs and quality control programs (Design Approval Primary Inspection Agencies—DAPIAs) and

(2) those which approve plants and perform ongoing inspections in the manufacturing plants (Production Inspection Primary Inspection Agencies—IPIAs).

(d) States and private organizations whose submissions under this subpart are acceptable shall be granted provisional acceptance. Final acceptance shall be conditioned upon adequate performance, which will be determined through monitoring of the actions of the primary inspection agencies. Monitoring of all primary inspection agencies shall be carried out as set out in Subpart J. HUD accepted agencies can perform DAPIA functions for any manufacturer in any State and IPIA functions in any State except those in which the State has been approved to act as the exclusive IPIA under 3282.352.

(e) Primary inspection agencies approved under this subpart may contract with mobile home manufacturers (see 3282.202) to provide the services set out in this subpart. Any PIA which charges fees which are excessive in relation to the services rendered shall be subject to disqualification under 3282.356.

3282.352. State Exclusive IPIA Functions.

(a) Any State which has an approved State Administrative Agency may, if accepted as an IPIA, act as the exclusive IPIA within the State. A State which acts as an IPIA but is not approved as an SAA may not act as the exclusive IPIA in the State. A State which acts as an exclusive IPIA shall be staffed to provide IPIA services to all manufacturers within the state and may not charge unreasonable fees for those services.

(b) States which wish to act as exclusive IPIAs shall apply for approval to do so in their State plan applications. They shall specify the fees they will charge for IPIA services and shall submit proposed fee revisions to the Secretary prior to instituting any change in fees. If at any time the Secretary finds that those fees are not commensurate with the fees generally being charged for similar services, the Secretary will withhold or revoke approval to act as an exclusive IPIA. States acting as DAPIAs and also as exclusive IPIAs shall establish separate fees for the two functions and shall specify what additional services (such as approval of design changes and full time inspections) these fees cover. As provided in 3282.302(b)(II), each State shall submit fee schedules for its activities and, where appropriate, the fees presently charged for DAPIA and IPIA services, and any fees charged for DAP IA and IPIA services during the preceding two calendar years.

(c) A State's status as an exclusive IPIA in the State shall commence upon approval of the State Plan Application and acceptance of the State's submission under 3282.355, except as provided herein. Where a State was approved to provide IPIA functions under the Title I program, the State's status as an exclusive IPIA shall commence on the date the State submits to the Secretary a statement that it intends to act as an exclusive IPIA, but only if it affirms that the State has the present capacity to provide IPIA services for all manufacturing plants in the State. If the State indicates its desire to act as an exclusive IPIA, though it does not have the present capacity to do so, but affirms that it will within 90 days have the capacity to provide IPIA services to all manufacturers in the State, then the State's status as an exclusive IPIA shall commence on the date the state affirms it will have such capacity. Continuation of such a State's status as an exclusive IPIA is conditioned upon submittal of the State Plan Application as required by 3282.302(e) and upon final approval of that application. It is also conditioned upon the State adequately fulfilling its affirmation to provide IPIA services to all manufacturing plants in the State. Where a private organization accepted or provisionally accepted as an IPIA under this Subpart operating in a manufacturing plant within the State on the date the State's status as an exclusive IPIA would commence under this paragraph, the organization may provide IPIA services in that plant for 90 days after that date.

3282.353. Submission Format.

States and private organizations which wish to act as primary inspection agencies shall submit to the Director, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh St., S.W., Washington, D.C. 20410, an application which includes the following:

(a) A cover sheet which shall show the following:

(1) Name and address of the party making the application;

(2) The capacity (DAPIA, IPIA) in which the party wishes to be approved to act;

(3) A list of the key personnel who will perform the various functions required under these regulations;

(4) The number of mobile home manufacturers and manufacturing plants for which the submitting party proposes to act in each of the capacities for which it wishes to be approved to act;

(5) The estimated total number of mobile homes produced by those manufacturers and in those plants per year;

(6) The number of years the proposed primary inspection agency has been actively engaged in the enforcement of mobile home standards;

(7) A certification by the party applying that it will follow the Federal Mobile Home Construction and Safety Standards set out at 24 CFR Part 280 and any interpretations of those standards which may be made by the Secretary; and

(8) Whether the submitting party is approved to act as a primary inspection agency under the Title I program, and if so, in what capacity.

(b) A detailed schedule of fees to be charged broken down by the services for which they will be charged.

(c) A detailed description of how the submitting party intends to carry out all of the functions for which it wishes to be approved under this subpart, with appropriate cross-references to sections of this subpart, including examples and complete descriptions of all reports, tests, and evaluations which the party would be required to make. Where appropriate, later sections of this subpart identify particular items which must be included in the submission. The Secretary may request further detailed information, when appropriate.

(d) A party wishing to be approved as a DAPIA shall submit a copy of a mobile home design that it has approved (or if it has not approved a design, one that it has evaluated and a deviation report showing where the design is not in conformance with the standards) and a copy of a quality assurance manual that it has approved (or if it was not approved a manual, one that it has evaluated and a deviation report showing where the manual is inadequate).

(e) A party wishing to be approved as an IPIA shall submit a copy of a certification report which it has prepared for a mobile home plant or, if it has not prepared such a report, an evaluation of a manufacturing plant which it has inspected with a description of what changes shall be made before a certification report can be issued. A party that has not previously inspected mobile homes may nevertheless be accepted on the basis of the qualifications of its personnel and its commitment to perform the required functions.

(f) A primary inspection agency which has been approved under the Title I program, shall submit a statement reaffirming all commitments made under Title I, names and resumes of new key personnel, a certification that it will enforce the standard in accordance with these regulations, and a statement of fees as required by 3282.353(b).

3282.354. Submittal of False Information or Refusal to Submit Information.

The submittal of false information or the refusal to submit information required under this subpart may be sufficient cause for the Secretary to revoke or withhold acceptance.

3282.355. Submission Acceptance.

(a) A party whose submission is determined by the Department to be adequate shall be granted provisional acceptance until December 15, 1976, or for a six months period from the date of such determination, whichever is later.

(b) A party that has been accepted as a primary inspection agency under the Title I program shall be granted provisional acceptance for 30 days as of the effective date of these regulations. This provisional acceptance shall be extended to December 15, 1976, when the submission required by 3282.353(f) has been made, within 30 days of the effective date of these regulations.

(c) Final acceptance of a party to act as a primary inspection agency will be contingent upon adequate performance during the period of provisional acceptance as determined through monitoring carried out under Subpart J and upon satisfactory acceptance under 3282.361(e) or 3282.362(e). Final acceptance shall be withheld if performance is inadequate.

(d) Continued acceptance as a primary inspection agency shall be contingent upon continued adequacy of performance as determined through monitoring carried out under Subpart J. If the Secretary determines that a primary inspection agency that has been granted final acceptance is performing inadequately, the Secretary shall suspend the acceptance, and the primary inspection agency shall be entitled to a hearing or presentation of views as set out in Subpart D of this part.

3282.356. Disqualification and Requalification of Primary Inspection Agencies.

(a) The Secretary, based on monitoring reports or other reliable information, may determine that a primary inspection agency which has been accepted under this subpart is not adequately carrying out one or more of its required functions. In so doing, the Secretary shall consider the impact of disqualification on manufacturers and other affected parties and shall seek to assure that the manufacturing process is not unnecessarily disrupted thereby. Whenever the Secretary disqualifies a primary inspection agency under this section, the primary inspection agency shall have a right to a hearing or presentation of views under Subpart D of this part.

(b) Interested persons may petition the Secretary to disqualify a primary inspection agency under the provisions of 3282.156(b).

(c) A primary inspection agency which has been disqualified under paragraph (a) may resubmit an application under 3282.353. The submission shall include a full explanation of how problems or inadequacies which resulted in disqualifications have been rectified and how the primary inspection agency shall assure that such problems shall not recur.

(d) When appropriate, the Secretary shall publish in the Federal Register or otherwise make available to the public for comment a disqualified PIA's application for requalification, subject to the provisions of 3282.54.

3282.357. Background and Experience.

All private organizations shall submit statements of the organizations' experience in the housing industry, including a list of housing products, equipment, and structures for which evaluation, testing and follow–up inspection services have been furnished. They shall also submit statements regarding the length of time these services have been provided by them. In addition, all such submissions shall include a list of other products for which the submitting party provides evaluation, inspection, and listing or labeling services and the standard applied to each product, as well as the length of time it has provided these additional services.

3282.358. Personnel.

(a) Each primary inspection agency shall have qualified personnel capable of carrying out all of the functions for which the primary inspection agency is seeking to be approved or disapproved. Where a State intends to act as the exclusive IPIA in the State, it shall show that it has adequate personnel to so act in all plants in the State.

(b) Each submission shall indicate the total number of personnel employed by the submitting party, the number of personnel available for this program, and the locations of the activities of the personnel to be used in the program.

(c) Each submission shall include the names and qualifications of the administrator and the supervisor who will be directly responsible for the program, and resumes of their experience.

(d) Each submission shall contain the information set out in paragraphs (d)(1) through (d)(9) of this section. Depending upon the functions (DAPIA, or IPIA) to be undertaken by a particular primary inspection agency, some of the categories of personnel listed may not be required. In the cases, the submission should indicate which of the categories of information are not required and explain why they are not needed. The submission should identify which personnel will carry out each of the functions the party plans to perform. The qualifications of the personnel to perform one or more of the functions will be judged in accordance with the requirements of ASTM Standard E–541 except that the requirement for registration as a professional engineer or architect may be waived for personnel whose qualifications by experience or education equal those of a registered engineer or architect. The categories of personnel to be included in the submission are as follows:

(1) The names of engineers practicing structural engineering who will be involved in the evaluation, testing, or follow–up inspection services, and resumes of their experience.

(2) The names of engineers practicing mechanical engineering who will be involved in the evaluation, testing, or follow–up, inspection services and resumes of their experience.

(3) The names of engineers practicing electrical engineering who will be involved in the evaluation, testing, or follow–up inspection services and resumes of their experience.

(4) The names of engineers practicing fire protection engineering who will be involved in the evaluation, testing, or follow–up inspection services, and resumes of their experience.

(5) The names of all other engineers assigned to this program, the capacity in which they will be employed, and resumes of their experience.

(6) The names of all full–time and part–time consulting architects and engineers, their registration, and resumes of their experience.

(7) The names of inspectors and other technicians along with resumes of experience and a description of the type of work each will perform.

(8) A general outline of the applicant agency's training program for assuring that all inspectors and other technicians are property trained to do each specific job assigned.

(9) The names and qualifications of individuals serving on advisory panels that assist the applicant agency in making its policies conform with the public interest in the field of public health and safety.

(e) All information required by this section shall be kept current. The Secretary shall be notified of any change in personnel or management or change of ownership or state jurisdiction within 30 days of such change.

3282.359. Conflict of Interest.

(a) All submissions by private organizations shall include a statement that the submitting party is independent in that it does not have any actual or potential conflict of interest and is not affiliated with or influenced or controlled by any producer, supplier, or vendor of products in any manner which might affect its capacity to render reports of findings objectively and without bias.

(b) A private organization shall be judged to be free of conflicting affiliation, influence, and control if it demonstrates compliance with all of the following criteria:

(1) It has no managerial affiliation with any producer, supplier, or vendor of products for which it performs PIA services, and is not engaged in the sale or promotion of any such product or material;

(2) The results of its work do not accrue financial benefits to the organization via stock ownership of any producer, supplier or vendor of the products involved;

(3) Its directors and other management personnel and its engineers and inspectors involved in certification activities hold no stock in and receive no stock option or other benefits, financial, or otherwise, from any producer, supplier, or vendor of the product involved, other than compensation under 3282.202 of this part;

(4) The employment security status of its personnel is free of influence or control of any producer, supplier, or vendor, and

(5) It does not perform design or quality assurance manual approval services for any manufacturer whose design or manual has been created or prepared in whole or in part by engineers of its organization or engineers of any affiliated organization.

(c) All submissions by States shall include a statement that personnel who will be in any way involved in carrying out the State plan of PIA function are free of any conflict of interest except that with respect to members of councils, committees or similar bodies providing advice to the designated agency are not subject to this requirement.

3282.360. PIA Acceptance of Product Certification Programs or Listings.

In determining whether products to be included in a mobile home are acceptable under the standards set out in Part 280 of Chapter II of 24 CFR, all PIAs shall accept all product verification programs, labelings, and listings unless the PIA has reason to believe that a particular certification is not acceptable in which case, the PIA shall so inform the Secretary and provide the Secretary with full documentation and information on which it basis its belief. Pending a determination by the Secretary, the PIA shall provisionally accept the certification. The Secretary's determination shall be binding on all PIAs.

3282.361. Design Approval Primary Inspection Agency (DAPIA).

(a) General.

(1) The DAPIA selected by a manufacturer under Section 3282.203 shall be responsible for evaluating all mobile home designs submitted to it by the manufacturer and for assuring that they conform to the standards. It shall also be responsible for evaluating all quality control programs submitted to it by the manufacturer by reviewing the quality assurance manuals in which the programs are set out to assure that the manuals reflect programs which are compatible with the designs to be followed and which commit the manufacturer to make adequate inspections and tests of every part of every mobile home produced.

(2) A design or quality assurance manual approved by a DAPIA shall be accepted by all IPIAs acting under 3282.362 who deal with the design, quality assurance manual, or mobilhomes built to them, and by all other parties, as, respectively, being in conformance with the Federal standards or as providing for adequate quality control to assure conformance. However, each design and quality assurance manual is subject to review and verification by the Secretary or the Secretary's agent at any time.

(b) Designs.

(1) In evaluating designs for compliance with the standards, the DAPIA will not allow any deviations from accepted engineering practice standards for design calculations or any deviations from accepted test standards, except that the DAPIA, for good cause, may request the Secretary to accept innovations which are not yet accepted practices. Acceptances by the secretary shall be published in the form of interpretative bulletins, where appropriate.

(2) The DAPIA shall require the manufacturer to submit floor plans and specific information for each mobile home design or variation which the DAPIA is to evaluate. It shall also require the submission of drawings, specifications, calculations, and test records of the structural, electrical and mechanical systems of each such mobile home design or variation. The manufacturer need not supply duplicate information where systems are common to several floor plans. Each DAPIA shall develop and carry out procedures for evaluating original mobile home designs by requiring manufacturers to submit necessary drawings and calculations and carry out such verifications and calculations as it deems necessary. Where compliance with the standards cannot be determined on the basis of drawings and calculations, the DAPIA shall require any necessary tests to be carried out at its own facility, at separate testing facilities or at the manufacturer's plant.

(3) Design Deviation Report. After evaluating the manufacturer's design, the DAPIA shall furnish the manufacturer with a design deviation report which specifies in detail, item by item with appropriate citations to the standards, the specific deviations in the manufacturer's design which must be rectified in order to produce mobile homes which comply with the standards. The design deviation report may acknowledge the possibility of alternative designs, tests, listings, and certifications and state the conditions under which they will be acceptable. The design deviation report shall, to the extent practicable, be complete for each design evaluated in order to avoid repeated rejections and additional costs to the manufacturer.

(4) Design Approval. The DAPIA shall signify approval of a design by placing its stamp of approval or authorized signature on each drawing and each sheet of test results. The DAPIA shall clearly cross–reference the calculations and test results to applicable drawings. The DAPIA may require the manufacturer to do the cross–referencing if it wishes. It shall indicate on each sheet how any deviations from the standards have been or shall be resolved. Within 5 days after approving a design, the DAPIA shall forward a copy of the design to the manufacturer and the Secretary or the Secretary's agent (prior to the effective date of the standards the latter copy shall go to the Secretary).

The DAPIA shall maintain a complete up–to–date set of approved designs and design changes approved under paragraph (b)(5) which it can duplicate and copies of which it can furnish to interested parties as needed when disputes arise.

(5) Design Change Approval. The DAPIA shall also be responsible for approving all changes which a manufacturer wishes to make in a design approved by the DAPIA. In reviewing design changes, the DAPIA shall respond as quickly as possible to avoid disruption of the manufacturing process. Within 5 days after approving a design change, the DAPIA shall forward a copy of this change to the manufacturer and the Secretary or the Secretary's agent as set out in paragraph (b)(4) of this section to be included in the design to which the change was made.

(c) Quality Assurance Manuals.

(1) In evaluating a quality assurance manual, the DAPIA shall identify any aspects of designs to be manufactured under the manual which require special quality control procedures. The DAPIA shall determine whether the manual under which a particular design is to be manufactured reflects those special procedures, and shall also determine whether the manuals which it evaluates provide for such inspections and testing of each mobile home so that the manufacturer, by following the manual, can assure that each mobile home it manufactures will conform to the standards. The manual shall, at a minimum, include the information set out in 3282.203(c).

(2) Manual Deviation Report. After evaluating a manufacturer's quality assurance manual, the DAPIA shall furnish the manufacturer with a manual deviation report which specifies in detail any changes which a manufacturer must make in order for the quality assurance manual to be acceptable. The manual deviation report shall, to the extent practicable, be complete for each design in order to avoid repeated rejections and additional costs to the manufacturer.

(3) Manual Approval. The DAPIA shall signify approval of the manufacturer's quality assurance manual by placing its stamp of approval or

authorized signature on the cover page of the manual. Within 5 days of approving a quality assurance manual, the DAPIA shall forward a copy of the quality assurance manual to the manufacturer and the Secretary or the Secretary's agent (prior to the effective date of the standards, the latter copy shall go to the Secretary). The DAPIA shall maintain a complete up–to–date set of approved manuals and manual changes approved under paragraph (c)(4) of this section which it can duplicate and copies of which it can furnish to interested parties as needed when disputes arise.

(4) Manual Change Approval. Each change the manufacturer wishes to make in its quality assurance manual shall be approved by the DAPIA. Within 5 days after approving a manual change, the DAPIA shall forward a copy of the change to the manufacturer and the Secretary or the Secretary's agent as set out in paragraph (c)(3) of this section to be included in the manual to which the change was made.

(d) Special provision—Title I approvals. A design that has been approved by an organization accepted by the Secretary prior to June 15, 1976, under the Title I program need not be reevaluated, but it shall be revised to bring it into conformance with the Federal standards. When the DAPIA that approved a Title I design to the ANSI Standard has approved the design changes that bring the design into conformance with the Federal standards, that design shall be considered approved for purposes of these regulations. Quality assurance manuals that have been approved under the Title I program shall be considered approved for purposes of these regulations. The DAPIA that approved the Title I design and any required design changes or the quality assurance manual shall assure that copies of each are distributed as new designs, manuals, and changes will be accomplished under paragraphs (b) and (c) of this section. New copies need not be distributed to parties which already have copies.

(e) Requirements for Full Acceptance—DAPIA.

(1) Before granting full acceptance to a DAPIA, the Secretary of the Secretary's agent shall review and evaluate at least one complete design and one quality assurance manual which has been approved by the DAPIA. These shall be designs and manuals approved to the Federal standards, and they shall be chosen at random from those approved by the DAPIA during the period of provisional acceptance.

(2) If the Secretary determines that a design or quality assurance manual shows an inadequate level of performance, the Secretary or the Secretary's agent shall carry out further evaluations. If the Secretary finds the level of performance to be unacceptable, the Secretary shall not grant full acceptance. If full acceptance has not been granted by the end of the provisional acceptance period, provisional acceptance shall lapse unless the Secretary determines that the failure to obtain full acceptance resulted from the fact that the Secretary or her agent has not had adequate time in which to complete an evaluation.

3282.362. Production Inspection Primary Inspection Agencies (IPIAs).

(a) General.

(1) IPIA Responsibilities. An IPIA selected by a manufacturer under 3282.204 to act in a particular manufacturing plant shall be responsible for assuring:

(i) That the plant is capable of following the quality control procedures set out in the quality assurance manual to be followed in that plant;

(ii) That the plant continues to follow the quality assurance manual;

(iii) That any part of any mobile home that it actually inspects conforms with the design, or where the design is not specific with respect to an aspect of the standards, to the standards, and

(iv) That whenever it finds a mobile home in production which fails to conform to the design or where the design is not specific, to the standards, the failure to conform is corrected before the mobile home leaves the manufacturing plant; and

(v) That if a failure to conform to the design, or where the design is not specific, to the standards, is found in one mobile home, all other homes still in the plant which the IPIA's records or the records of the manufacturer indicate might not conform to the design or to standards are inspected and, if necessary, brought up to the standards before they leave the plant.

The IPIA is also generally responsible for reviewing and concurring in or disputing manufacturer determinations of the number of mobile homes affected under 3282.404 and for otherwise fulfilling its responsibilities set out in Subpart I. The IPIA shall also make any reports called for under Subpart L.

(2) No more than one IPIA shall operate in any one manufacturing plant, except that where a manufacturer decides to change from one IPIA to another, the two may operate in the plant simultaneously for a limited period of time to the extent necessary to assure a smooth transition.

(b) Plant Approval.

(1) Each IPIA shall, with respect to each manufacturing plant for which it is responsible, evaluate the quality control procedures being followed by the manufacturer in the plant to determine whether those procedures are consistent with and fulfill the procedures set out in the DAPIA approved quality assurance manual being followed in the plant. As part of this evaluation, and prior to the issuance of any labels to the manufacturer, the IPIA shall make a complete inspection of the manufacture of at least one mobile home through all of the operations in the manufacturer's plant. The purpose of this initial factory inspection is to determine whether the manufacturer is capable of producing mobile homes in conformance with the approved design and, to the extent the design is not specific with respect to an aspect of the standards, with the standards and to determine whether the manufacturer's quality control procedures as set out in the quality assurance manual plant equipment, and personnel, will assure that such conformance continues. This inspection should be made by one or more qualified engineers who have reviewed the approved design and by an inspector who has been carefully briefed by the engineers on the restrictive aspects of the design. The mobile home shall be inspected to the approved design for the home except that where the design is not specific with respect to any aspect of the standards, the inspection shall be to the standards as to that aspect of the mobile home. If the first mobile home inspected fails to conform to the design or, with respect to any aspect of the standards not specifically covered by the design, to the standards, additional units shall be similarly inspected until the IPIA is satisfied that the manufacturer is conforming to the approved design, or where the design is not specific with respect to an aspect of the standards, to the standards and quality assurance manual.

(2) Certification Report. If, on the basis of the initial comprehensive factory inspection required by paragraph (b)(1) of this section, the IPIA determines that the manufacturer is performing adequately, the IPIA shall prepare and forward to the manufacturer, to HUD, and to HUD's agent a certification report as described in this paragraph (b)(2). The issuance of the certification report is a prerequisite to the commencement of production surveillance under paragraph (c) of this section in the plant for which the report is issued. At the time the certification report is issued, the IPIA may provide the manufacturer with a two to four week supply of labels to be applied to mobile homes produced in the plant. The IPIA shall maintain a copy of each certification report which it issues.

(3) The certification report shall include:

(i) The name of the DAPIA which approved the manufacturer's design and quality assurance manual and the dates of those approvals,

(ii) The names and titles of the IPIA engineers and inspectors who performed the initial comprehensive inspection,

(iii) A full report of inspections made, serial numbers inspected, any failures to comply which were observed, corrective actions taken, and dates of inspections, and

(iv) A certification that at least one mobile home has been completely inspected in all phases of its production in the plant, that the manufacturer is performing in conformance with the approved designs and quality assurance manual and, to the extent the design is not specific with respect to any aspects of the standards, with the standards, and the IPIA is satisfied that the manufacturer can produce mobile homes in conformance

with the designs, and where the designs are not specific, with the standards on a continuing basis.

(4) Inadequate Manufacturer Performance.Where an IPIA determines that the performance of a manufacturer is not yet adequate to justify the issuance of a certification report and labels to the manufacturer, the IPIA may label mobile homes itself by using such of its personnel as it deems necessary to perform complete inspections of all phases of production of each mobile home being produced and labeling only those determined after any necessary corrections to be in conformance with the design and, as appropriate, with the standards. This procedure shall continue until the IPIA determines that the manufacturer's performance is adequate to justify the issuance of a certification report.

(5) Transition Provision.

(i) Prior to the effective date of the standards, when the IPIA finds that it does not have adequate staff to perform the initial comprehensive inspection in a manufacturing plant soon enough for that manufacturer to be in production on the effective date of the standards, or after the effective date of the standards with respect to a manufacturer which is acting under the transition certification process set out in 3282.207, the IPIA may arrange to have a DAPIA perform the initial comprehensive in–factory inspection under paragraph (b)(1) and issue the certification report under paragraph (b)(2). The IPIA shall then issue a two–to–four–week supply of labels to be used beginning on the effective date of the standards. If the DAPIA is unable to complete the initial comprehensive factory inspection and issue the certification report prior to the effective date of the standards, the DAPIA shall submit a deviation report to the IPIA listing all conditions that shall be corrected in the factory prior to the issuance of the certification report and labels. Upon receipt of the DAPIA's deviation report, the IPIA may initiate full–time inspection in the factory with such personnel as it deems necessary to provide complete inspections of mobile homes in production, and it shall apply labels to those mobile homes that it knows by its own inspections to be in conformance with the design and, as appropriate under paragraph (b)(1), with the standards. The IPIA shall continue its full–time inspection in the plant until all deviations cited by the DAPIA have been corrected and the IPIA is satisfied that the manufacturer is conforming to the approved designs and quality assurance manual and as appropriate under paragraph (b)(1), with the standards. When these conditions have been met the IPIA shall issue the certification report and a two–to–four–week supply of labels to the manufacturer to be used prior to the commencement of production surveillance under paragraph (c) of this section.

(ii) A certification report for a particular plant accepted under the Title I program shall be accepted as a certification report under paragraph (b)(2). The IPIA which originally issued the certification report or a different IPIA acting for the manufacturer under this section shall assure that copies of it are distributed as new reports would be under paragraph (b)(2), except that copies need not be distributed to parties which already have copies.

(c) Production Surveillance.

(1) After it has issued a certification report under subsection (b) of this section, the IPIA shall carry out ongoing surveillance of the manufacturing process in the plant. The IPIA shall be responsible for conducting representative inspections to assure that the manufacturer is performing its quality control program pursuant to and consistent with its approved quality assurance manual and to assure that whatever part of a mobile home is actually inspected by the IPIA is fully in conformance with the design and, as appropriate under paragraph (a)(1)(iii) of this section, with the standards before a label is issued for or placed on that mobile home. The surveillance visits shall commence no later than that date on which the IPIA determines they must commence so that the IPIA can assure that every mobile home to be produced after the effective date of the standards to which a label provided for in paragraph (c)(2) of this section is affixed, is inspected in at least one stage of its production. The frequency of subsequent visits to the plant shall continue to be such that every mobile home is inspected at some stage in its production. In the course of each visit, the IPIA shall make a complete inspection of every phase of production and of every visible part of every mobile home which is at each stage of production. The inspection shall be made to the approved design except where the design is not specific with respect to an aspect of the standards, in which case the inspection of that aspect of the mobile home shall be made to the standards. The IPIA shall assure that no label is placed on any mobile home which it finds fails to conform with the approved design or, as appropriate, the standards in the course of these inspections and shall assure that no labels are placed on other mobile homes still in the plant which may also not conform until those homes are inspected and if necessary corrected to the design or the standards. If an IPIA finds a mobile home that fails to conform to the design, or as appropriate under paragraph (a)(1)(iii) of this section, to the standards, the IPIA may, in addition to withholding the label for the unit, proceed to red tag the home until the failure to conform is corrected. Only the IPIA is authorized to remove a red tag. When mobile homes repeatedly fail to conform to the design, or as appropriate under paragraph (a)(1)(iii), to the standards in the same assembly station or when there is evidence that the manufacturer is ignoring or not performing under its approved quality assurance manual, the IPIA shall increase the frequency of these inspections until it is satisfied that the manufacturer is performing to its approved quality assurance manual. Failure to perform to the approved manual justifies withholding labels until an adequate level of performance is attained. As part of its function of assuring quality control, the IPIA shall inspect materials in storage and test equipment used by the manufacturer at least once a month, and more frequently if unacceptable conditions are observed. With the prior approval of the Secretary, an IPIA may decrease the frequency of any inspections.

(2) Labeling.

(i) Labels Required.

(A) The IPIA shall continuously provide the manufacturer with a two–to–four–week supply (at the convenience of the IPIA and the manufacturer) of the labels described in this subsection, except that no labels shall be issued for use when the IPIA is not present if the IPIA is not satisfied that the manufacturer can and is producing mobile homes which conform to the design and, as appropriate, to the standards. Where necessary, the IPIA shall reclaim labels already given to the manufacturer. In no event shall the IPIA allow a label to be affixed to a mobile home if the IPIA believes that the mobile home fails to conform to the design, or, where the design is not specific with respect to an aspect of the standards, to the standards. Labels for such mobile homes shall be provided only after the failure to conform has been remedied, or after the Secretary has determine d that there is no failure to conform.

(B) Except where a manufacturer acts under the transition certification program under 3282.207 a permanent label shall be affixed to each transportable section of each mobile home for sale or lease to a purchaser in the United States in such a manner that removal will damage the label so that it cannot be reused. This label is provided by the IPIA and is separate and distinct from the data plate which the manufacturer is required to provide under Section 280.5 of Chapter II of 24 CFR.

(C) The label shall read as follows:

AS EVIDENCED BY THIS LABEL NO. ABC 000 001, THE MANUFACTURER CERTIFIES THAT THIS MOBILE HOME HAS BEEN INSPECTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND TO THE BEST OF THE MANUFACTURER'S KNOWLEDGE AND BELIEF, IS CONSTRUCTED IN CONFORMANCE WITH THE FEDERAL MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS IN EFFECT ON THE DATE OF MANUFACTURE. SEE DATA PLATE.

(D) The label shall be 2 in. by 4 in. in size and shall be permanently attached to the mobile home by means of 4 blind rivets, drive screws, or other means that render it difficult to remove without defacing it. It shall be etched on .032 in. thick aluminum plate. The label number shall be etched or stamped with a 3 letter IPIA designation which the Secretary

shall assign and a 6 digit number which the label supplier shall stamp sequentially on labels supplied to each IPIA.

(E) The label shall be located at the tail–light end of each transportable section of the mobile home approximately one foot up from the floor and one foot in from the road side, or as near that location on a permanent part of the exterior of the mobile home as practicable. The roadside is the right side of the mobile home when one views the mobile home from the tow bar end of the mobile home. It shall be applied to the mobile home unit in the manufacturing plant by the manufacturer or the IPIA, as appropriate.

(F) The label shall be provided to the manufacturer only by the IPIA. The IPIA shall provide the labels in sequentially numbered series. The IPIA may obtain labels from the Secretary or the Secretary's agent, or where the IPIA obtains the prior approval of the Secretary, from a label manufacturer. However, if the IPIA obtains labels directly from a label supplier, those labels must be sequentially numbered without any duplication of label numbers.

(G) Whenever the IPIA determines that a mobile home which has been labeled, but which has not yet been released by the manufacturer may not conform to the design or, as appropriate under paragraph (a)(1)(iii) of this section, to the standards, the IPIA by itself or through an agent shall red tag the mobile home. Where the IPIA determines that a mobile home which has been labeled and released by the manufacturer, but not yet sold to a purchaser (as described in 3282.252(b)) may not conform, the IPIA may, in its discretion, proceed to red tag the mobile home. Only the IPIA is authorized to remove red tags, though it may do so through agents which it deems qualified to determine that the failure to conform has been corrected. Red tags may be removed when the IPIA is satisfied, through inspections, assurances from the manufacturer, or otherwise, that the affected homes conform.

(H) Labels that are damaged, destroyed, or otherwise made illegible or removed shall be replaced by the IPIA, after determination that the mobile home is in compliance with the standards, by a new label of a different serial number. The IPIA's labeling record shall be permanently marked with the number of the replacement label and a corresponding record of the replacement label.

(ii) Label Control. The labels used in each plant shall be under the direct control of the IPIA acting in that plant. They shall be provided to the manufacturer only by the IPIA. The IPIA shall assure that the manufacturer does not use any other label to indicate conformance to the standards. This paragraph (c)(2)(ii) does not apply to transition–certification labels used under 3282.207.

(A) The IPIA shall be responsible for obtaining labels. Labels shall be obtained from HUD or its agent, or with the approval of the Secretary, from a label manufacturer. The labels shall meet the requirements of this section. Where the IPIA obtains labels directly from a label manufacturer, the IPIA shall be responsible for assuring that the label manufacturer does not provide labels directly to the manufacturer of mobile homes. If the label manufacturer fails to supply correct labels or allows labels to be released to parties other than the IPIA, the IPIA shall cease dealing with the label manufacturer.

(B) The labels shall be shipped to and stored by the IPIA's at a location which permits ready access to manufacturing plants under its surveillance. The labels shall be stored under strict security and inventory control. They shall be released only by the IPIA to the manufacturer under these regulations.

(C) The IPIA shall be able to account for all labels which it has obtained through the date on which the mobile home leaves the manufacturing plant, and it shall be able to identify the serial number of the mobile home to which each particular label is affixed.

(D) The IPIA shall keep in its central record office a list of the serial numbers of labels issued from the label producer to the IPIA and by the IPIA to the manufacturing plant.

(E) Failure to maintain control of labels through the date the mobile home leaves the manufacturing plant and failure to keep adequate records of which label is on which mobile home shall render the IPIA subject to disqualification under 3282.356.

(3) Data Plate.

(i) The IPIA shall assure that each mobile home produced in each manufacturing plant under its surveillance is supplied with a data plate which meets the requirements of this section and of Section 280.5 of Chapter II or 24 CFR. The data plate shall be furnished by the manufacturer and affixed inside the mobile home on or near the main electrical distribution panel. The data plate shall contain the following information:

(A) The name and address of the manufacturing plant in which the mobile home was manufactured,

(B) The serial number and model designation of the unit and the date the unit was manufactured,

(C) The statement "This mobile home is designed to comply with the Federal Mobile Home Construction and Safety Standards in force at the time of manufacture,"

(D) A list of major factory–installed equipment including the manufacturer's name and the model designation of each appliance,

(E) Reference to the structural zone and wind zone for which the home is designed and duplicates of the maps as set forth in Section 280.305(c)(4) of Chapter II of 24 CFR. This information may be combined with the heating/cooling certificate and insulation zone maps required by Sections 280.510 and 280.511 of Chapter II of 24 CFR,

(F) The statement "design approval by" followed by the name of the DAPIA which approved the design,

(ii) A copy of the data plate shall be furnished to the IPIA, and the IPIA shall keep a permanent record of the data plate as part of its labeling record so that the information is available during the life of the mobile home in case the data plate in the mobile home is defaced or destroyed.

(d) Permanent Records.The IPIA shall maintain the following records as appropriate:

(1) Records of all labels issued, applied, removed, and replaced by label number, mobile home serial number, mobile home type, manufacturer's name, dealer destination, and copies of corresponding data plates.

(2) Records of all mobile homes which are red tagged, and the status of each home.

(3) Records of all inspections made at each manufacturing plant on each mobile home serial number, each failure to conform found, and the action taken in each case.

(4) Records of all inspections made at other locations of mobile homes identified by manufacturer and serial number, all mobile homes believed to contain the same failure to conform, and the action taken in each case.

All records shall specify the precise section of the standard which is in question and contain a clear and concise explanation of the process by which the IPIA reached any conclusions. All records shall be traceable to specific mobile home serial numbers and through the manufacturer's records to dealers and purchasers.

(e) Requirements for Full Acceptance—IPIA.

(1) Before granting full acceptance to an IPIA, the Secretary or the Secretary's agent shall review and evaluate at least one certification report which has been prepared by the IPIA during the period of provisional acceptance. The Secretary or the Secretary's agent shall also review in depth the IPIA's administrative capabilities and otherwise review the IPIA's performance of its responsibilities under these regulations.

(2) Where the Secretary determines on the basis of these reviews that an IPIA is not meeting an adequate level of performance, the Secretary or the Secretary's agent shall carry out further evaluations. If the Secretary finds the level of performance to be unacceptable, the Secretary shall not grant full acceptance. If full acceptance has not been granted by the end of the provisional acceptance period, provisional acceptance shall lapse unless the Secretary determines that the failure to obtain full accep-

tance resulted from the fact that the Secretary or the Secretary's agent has not had adequate time in which to complete an evaluation.

3282.363. Right of Entry and Inspection.

Each primary inspection agency shall secure from each manufacturer and manufacturing plant under its surveillance an agreement that the Secretary, the State Administrative Agency and the primary inspection agency have the right to inspect the plant and its mobile home inspection, labeling, and delivery records, and any of its mobile homes in the hands of dealers or distributors at any reasonable time.

3282.364. Inspection Responsibilities and Coordination

All primary inspection agencies shall be responsible for acting as necessary under their contractual commitment with the manufacturer to determine whether alleged failures to conform to the standards may exist in mobile homes produced under their surveillance and to determine the source of the problems. The DAPIA may be required to examine the designs in question or the quality assurance manual under which the mobile homes were produced. The IPIA may be required to reexamine the quality control procedures which it has approved to determine if they conform to the quality assurance manual, and the IPIA shall have primary responsibility for inspecting actual units produced and, where necessary, for inspecting units released by the manufacturer. All primary inspection agencies acting with respect to particular manufacturer or plant shall act in close coordination so that all necessary functions are performed effectively an efficiently.

3282.365. Forwarding Monitoring Fee.

The IPIA shall, whenever it provides labels to a manufacturer, obtain from the manufacturer the monitoring fee to be forwarded to the Secretary or the Secretary's agent as set out in 3282.210. If a manufacturer fails to provide the monitoring fee as required by 3282.210 to be forwarded by the IPIA under this section, the IPIA shall immediately inform the Secretary; or the Secretary's agent.

Subpart I. Consumer Complaint Handling and Remedial Actions

3282.401. Scope.

(a) This subpart sets out procedures to be followed by parties acting under these regulations, and in particular by manufacturers, State Administrative Agencies, primary inspection agencies, and the Secretary, when they receive a consumer complaint or other information indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance in a mobile home which has been sold or otherwise released by a manufacturer to another party. The information as used herein includes knowledge of an imminent safety hazard or failure to conform to the standards found in the plant which may exist in any mobile home already sold or released by the manufacturer. This subpart governs how the information is to be handled, what remedial actions may be required, and how and by whom those remedial actions shall be taken.

(b) Nothing in this subpart or in these regulations shall limit the rights of the purchaser under any contract or applicable law.

(c) Notwithstanding the provisions of 3282.404–3282.407, no manufacturer may be required to act under those sections with respect to noncompliances or defects until September 15, 1976, except as stated in this paragraph. However, each manufacturer shall retain all consumer complaints and other information received by the manufacturer before that date that indicate the possible existence of noncompliances or defects and maintain complete records of the manufacturer's response, if any. The Secretary and State Administrative Agencies that would act under 3282.404–3282.407 with respect to noncompliances and defects shall forward complaints and other information to the manufacturers as they would under 3282.406(a), but shall not require that any action be taken by the manufacturer until September 15, 1976, if the manufacturer responds under 3282.406(b) that the information does not relate to a serious defect or imminent safety hazard and the SAA or the Secretary agrees. September 15, 1976, shall be considered to be the date on which consumer complaints and other information were received by the manufacturer for purposes of computing the time periods within which actions must be taken under 3282.404–3282.407 with respect to those complaints and other information relating to noncompliances or defects received before September 15, 1976.

3282.402. Purpose.

The purpose of this subpart is to establish a system under which the protections of the Act are provided with a minimum of formality and delay in the majority of cases, but in which the rights of all parties are protected.

3282.403. Consumer Complaint and Information Referral.

(a) Consumer complaints or other information relating to possible imminent safety hazards or to possible failures to conform to the Federal standards should be sent directly to the manufacturer of the mobile home in question. It is the policy of these regulations that all consumer complaints or other information indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance should be referred to the manufacturer of potentially affected mobile homes as early as possible so that the manufacturer can begin to take any necessary remedial actions.

(b) When a consumer complaint or other information indicating the possible existence of a failure to conform or imminent safety hazard is received by a State Administrative Agency concerning a mobile home not located in that state or is received by the Secretary, the SAA or the Secretary shall forward the complaint or other information to the SAA of the State in which the mobile home in question is located unless it appears from the complaint or otherwise that the mobile homes containing the same possible failure to conform or imminent safety hazards are located in more than one State. If it appears that possibly affected mobile homes are located in more than one State, the complaint shall be forwarded to the SAA of the State where the homes were manufactured, unless it further appears that the mobile homes were manufactured in more than one State, in which case the complaint shall be forwarded to the Secretary. If the complaint or information concerns a mobile home located in the State, the SAA shall act under this subpart. Where there is no SAA in the state in which the allegedly affected mobile homes are located or manufactured, as appropriate, the complaint shall be sent to the Secretary, and the Secretary shall act under this subpart. In all cases, a copy of the complaint or other information shall simultaneously be sent to the manufacturer of the mobile homes that may be affected.

3282.404. Manufacturer Initiated Response.

(a) Whenever a manufacturer receives from a source other than the Secretary or a State Administrative Agency a consumer complaint or other information which indicates the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance in a mobile home which has been sold or otherwise released by the manufacturer, the manufacturer shall investigate the possible existence of the imminent safety hazard or failure to conform in the mobile home or homes to which the complaint or information relates.

(b) Within 10 days of receipt of the complaint or other information, the manufacturer by investigation of the complaint, inspection of the mobile home, or otherwise shall determine whether or not an imminent safety hazard, serious defect, defect or noncompliance exists in the mobile home.

(1) If the manufacturer determines that no imminent safety hazard, serious defect, defect, or noncompliance exists, the manufacturer shall, on or before the tenth day after receipt of the complaint or other information, mail or otherwise communicate the manufacturer's determination to any complaining or inquiring parties and keep a permanent record of the determination and the action taken.

(2) If the manufacturer determines that an imminent safety hazard, serious defect, defect, or noncompliance exists, the manufacturer shall, within 5 days of making the determination, search its records and take such other steps as may be necessary to determine whether or not the im-

minent safety hazard or failure to conform is unique to the complaint of mobile home.

(c) The manufacturer may determine that an imminent safety hazard or failure to conform is unique to a mobile home if the cause of the imminent safety hazard or failure to conform is not likely to result in the same or a similar problem in one or more other mobile homes. Each determination that no other mobile homes are affected shall be concurred in or disputed by the IPIA in the plant in which the affected mobile home was manufactured.

(1) If the IPIA disputes the determination of uniqueness, the manufacturer shall proceed as it would under paragraph (d) of this section.

(2) If the IPIA concurs in the determination of uniqueness.

(i) The manufacturer shall correct the imminent safety hazard or failure to conform within 30 days of the date on which the manufacturer determined the existence of an imminent safety hazard or failure to conform to the standards so that the mobile home is brought into conformance with the standards in effect at the time the mobile home was manufactured and any imminent safety hazard or failure to conform is removed, and,

(A) The manufacturer shall keep complete records of all determinations and corrections made under this paragraph (c)(2)(i). These records shall include the date the complaint was received, the action taken and the date the action was completed, and the appropriate statement under 3282.413(b);

(B) These records shall be subject to oversight by an SAA or the Secretary, and an incorrect determination or inadequate repair may subject the manufacturer to a requirement to act further under 3282.405, 3282.406, or 3282.407;

(C) The manufacturer need make no further reports or actions taken hereunder; or

(ii) The manufacturer shall proceed as it would under section (d) of this section.

(d) If the manufacturer determines that the imminent safety hazard or failure to conform may not be unique to one mobile home, the manufacturer shall, within 5 days of the date on which the determination of non-uniqueness is made under paragraph (b)(2) of this section, report the existence of the imminent safety hazard or failure to conform and identity of the units which may be affected. The manufacturer, in determining what mobile homes are affected, shall check mobile homes manufactured in all other plants in which the same factors which caused the original imminent safety hazard or failure to conform may exist or have existed. The manufacturer shall attach to the report a statement from the IPIA in each such plant that it concurs in or disputes the manufacturer's determination of which homes are affected. This report shall be sent to the State Administrative Agency of the State in which the affected mobile homes are located unless they are located in more than one State, in which case the report shall be sent to the State Administrative Agency of the State where the mobile homes were manufactured, except that where the mobile homes were manufactured in more than one State, the report shall be sent to the Secretary. Where there is no State Administrative Agency in the appropriate State under the previous sentence, the report shall be sent to the Secretary. At the same time that this report is being submitted, the manufacturer shall proceed under 3282.405.

3282.405. Notification Pursuant to Manufacturer's Determination.

(a) When a manufacturer determines that an imminent safety hazard, serious defect or defect may exist under 3282.404 (b)(2) and does not act under 3282.404 (c)(2)(i), the manufacturer shall prepare and submit a plan as set out in 3282.410 to the same agency to which the report required by 3282.404(d) was submitted.

(1) In cases in which the manufacturer has proceeded under 3282.404 (c)(2)(ii), this plan shall be submitted within 5 days of the determination of the possible existence of an imminent safety hazard or serious defect and within 10 days of the determination of the possible existence of a defect.

(2) In cases where the manufacturer has proceeded under 3282.404(d), the plan shall be submitted within 5 days of the due date of the report required by that section if the plan concerns an imminent safety hazard or serious defect or within 10 days if the plan concerns a defect.

(b) All plans for notification and correction shall meet the requirements of 3282.410 and shall be available for public inspection.

(c) After any necessary consultation with the manufacturer, the SAA or the Secretary to which the plan was sent shall approve the plan as submitted or make whatever modifications the SAA or the Secretary deems necessary, and shall notify the manufacturer of such approval or modification. The manufacturer shall be responsible for carrying out the plan as approved or modified by the SAA or the Secretary. If the manufacturer believes that the plan as modified and approved by the SAA or the Secretary is incorrect and wishes to contest the modification, the manufacturer shall so inform the SAA or the Secretary within 5 days of the SAA or the Secretary approval of the plan as modified. The SAA or the Secretary shall, if it does not accept the manufacturer's position, act as follows:

(1) If the manufacturer contends that the mobile home contains a defect rather than an imminent safety hazard or serious defect as the SAA or the Secretary contends, the SAA or the Secretary shall refer the matter to the Secretary for determination under 3282.407(a).

(2) If the manufacturer contends that the number of units affected is different from that stated by the SAA or the Secretary or that the contents of the notice or the correction are different from what the SAA or the Secretary would require, then:

(i) If the SAA or the Secretary and the manufacturer agree that a defect exists, the SAA or the Secretary shall make Preliminary Determination under 3282.407(b), and the parties shall proceed under that section, or

(ii) If the SAA or the Secretary and the manufacturer agree that an imminent safety hazard or serious defect exists, the SAA or the Secretary shall refer the matter to the Secretary for action under 3282.407(a).

However, in any case in which the only question in dispute is whether more units are affected than the manufacturer has stated in its plan, the manufacturer shall carry out the plan with respect to those units covered by it if the plan is otherwise acceptable, and time limits applicable to this action shall run from the date of determination by the manufacturer of the possible existence of an imminent safety hazard, serious defect, or defect.

(d) The manufacturer may undertake any corrections required by this subpart prior to approval of the plan. However, actions taken under this paragraph are subject to review by the agency that approved the plan under paragraph (a)(3) of this section, and if found unacceptable, shall not fulfill the requirement of this section.

(e) The formal notification requirements which would result from any determination by the manufacturer under this section may be waived by the SAA or the Secretary that would otherwise approve the plan under paragraph (a)(3) of this section upon receipt of satisfactory assurances from the manufacturer that:

(1) The manufacturer has identified all possibility affected mobile homes which have been sold to purchasers, dealers and distributors;

(2) The manufacturer has corrected, at the manufacturer's expense, all affected mobile homes; and

(3) The repairs, in the SAA or the Secretary's judgement, are adequate to remove the imminent safety hazards or failure to conform. The manufacturer may, before acting under this paragraph (c), to obtain the concurrence in the proposed corrections from the SAA or the Secretary that would otherwise approve the plan under paragraph (a) (3) of this section. All actions taken under this paragraph (b) by the manufacturer shall be completed within 30 days of the decision of the manufacturer to act under this 3282.405 if the problem is an imminent safety hazard or serious defect or 60 days if the problem is a defect unless the SAA or the Secretary which would have approved the plan under paragraph (a) (3) of this section, agrees to a longer period of time in extraordinary circumstances.

3282.406. SAA or Secretarial Initiated Response.

(a) When a consumer complaint or other information indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance is referred to the Secretary or an SAA under 3282.403(b), the Secretary or SAA shall expeditiously contact the manufacturer of the mobile home or homes in question. The Secretary or SAA must provide the manufacturer all information which it has concerning the possible imminent safety hazard or failure to conform and shall inform the manufacturer that the manufacturer shall report to the Secretary or SAA within 10 days of the contact as specified in paragraph (b) of this section. The SAA or the Secretary may extend the time period to 20 days upon satisfactory indications by the manufacturer that it is diligently investigating the situation, except that such extension shall not be granted if it is not the interest of the purchasers or owners.

(b) The manufacturer shall respond to the SAA or the Secretary which contacted it under paragraph (a) of this section within 10 days of the contact (unless an extension is granted). In this report the manufacturer shall indicate whether it knew of the complaint or information and

(1) If it knew of the complaint or information, or other complaints or information relating to the problem, what actions it has taken and the reasons therefor.

(2) If it did not know of the complaint or information, whether the manufacturer has classified the problem to which the complaint or information relates as an imminent safety hazard, serious defect, defect, or noncompliance, with the reasons for this classification or whether the manufacturer has determined that the problem complained of fits none of these classifications.

(c) If the manufacturer determines and responds under paragraph (b)(2) of this section that there is an imminent safety hazard, serious defect, defect, or noncompliance in the mobile homes, it shall proceed under 3282.404(b)(2), and if the manufacturer further proceeds under 3282.404(d), the manufacturer shall send a copy of the report required by that section to the SAA or the Secretary which forwarded the complaint or information to it under paragraph (a) of this section concerning the same imminent safety hazard or failure to conform.

(d) If the manufacturer determines and reports under paragraph (b)(2) of this section that no imminent safety hazard, serious defect, defect, or noncompliance exists in the complaint of mobile home or homes, the SAA or the Secretary to which the response is made under paragraph (b)(2) shall proceed as follows:

(1) If the SAA or the Secretary on the basis of the information reported by the manufacturer and any other information the SAA or the Secretary may have, agrees with the determination of the manufacturer, the SAA or the Secretary shall so inform the manufacturer and the complainants and shall consider the matter closed.

(2) If the SAA or the Secretary is not convinced by the information submitted by the manufacturer or otherwise believes that further investigation is necessary, the SAA or the Secretary shall investigate and, within day of receipt the manufacturer's report, shall inform the manufacturer of the results of its investigation.

(i) If the SAA or the Secretary agrees with the manufacturer's determination, it shall act as it would under paragraph (d)(1).

(ii) If the SAA or the Secretary believes that an imminent safety hazard, serious defect, defect, or noncompliance exists, it shall so inform the manufacturer, and the manufacturer may act as it would under paragraph (c) of this section. If the manufacturer does not choose to act under that paragraph, the SAA or the Secretary shall proceed under 3282.407, including holding any requested hearing or presentation of views, making any Preliminary or Final Determination, and approving any plan for notification correction.

(e) The manufacturer may obtain from any SAA to which a copy of the response required under paragraph (b)(2) of this section is sent approval of proposed corrections for only those mobile homes located in that state to which the complaint or information forwarded by the SAA to the manufacturer related but only for these mobile homes. If the manufacturer properly effects corrections pursuant to such approval, the manufacturer need not modify the correction at a later time despite the fact that the plan which is approved under 3282.405(a)(3) or 3282.407(a)(3) or (b)(3) contains different specifications for the correction. If a manufacturer provides correction under this paragraph, such correction does not constitute an admission by the manufacturer that an imminent safety hazard, serious defect, defect, or noncompliance exists, and it is not a concession by the manufacturer that the approved corrections are appropriate or necessary in any other mobile home. However, actions taken under this paragraph are subject to review by the SAA or the Secretary that approved the plan under paragraph (a)(3) of this section, and if found unacceptable, shall not fulfill the requirements of this section.

(f) An SAA or the Secretary acting under paragraph (a) of this section or under 3282.407 may, if at any point after contacting the manufacturer it determines that the consumer complaint or other information about which it has contacted the manufacturer (i) relates to a noncompliance of such a minor or technical nature that its existence will not contribute to the deterioration of the mobile home and will not interfere with the use and enjoyment of the mobile home, or (ii) does not constitute a failure to conform or imminent safety hazard, inform the manufacturer and any complainants of this determination and cease further action under this section or 3282.407.

3282.407. Notification Pursuant to Administrative Determination.

(a) Imminent Safety Hazards and Serious Defects. The Secretary shall act under this paragraph upon receipt of the opinion of an SAA that an imminent safety hazard or serious defect exists in one or more mobile homes and upon forming an opinion under 3282.406(d)(2)(ii) that an imminent safety hazard or serious defect exists. The Secretary may also act upon the receipt of any other information indicating the possible existence of an imminent safety hazard or serious defect. Only the Secretary may make Preliminary and Final Determinations that an imminent safety hazard or serious defect exists.

(1) Preliminary Procedures. Upon receipt of any information indicating the possible existence of an imminent safety hazard or serious defect, but where such information is not adequate to support a Preliminary Determination of an imminent safety hazard or serious defect under paragraph (a)(2) of this section, the Secretary shall direct the manufacturer to furnish information with respect to the imminent safety hazard or serious defect, including information about the mobile homes potentially affected, within a time prescribed by the Secretary. If the manufacturer fails to furnish information within such time or if, after a consideration of the manufacturer's response or other information the Secretary may receive or obtain, the Secretary is satisfied that an imminent safety hazard or serious defect may exist, the Secretary shall make a Preliminary Determination of an imminent safety hazard or serious defect under paragraph (a)(2) of this section.

(2) Preliminary Determination.

(i) Whenever the Secretary determines that there is reason to believe that an imminent safety hazard or serious defect exists in a mobile home, the Secretary shall make a preliminary determination to that effect. The Secretary shall within 5 days notify the manufacturer of such preliminary determination and inform the manufacturer that it may request a hearing or presentation of views under Subpart D to establish that there is no such imminent safety hazard or serious defect.

(ii) Notice shall be sent by certified mail and shall include:

(A) The preliminary determination made by the Secretary;

(B) The factual basis for the determination;

(C) The date on which the determination was made;

(D) The identifying criteria of the mobile homes that may be affected.

The notice shall inform the manufacturer that the preliminary determination of the Secretary shall become final unless the manufacturer responds within 5 days after receipt of such notice and requests a hearing or presentation of views to rebut the Secretary's determination. The Secretary shall further notify the manufacturer as to whether such imminent

safety hazard or serious defect is one which the manufacturer may be required to correct at the manufacturer's expense pursuant to 3282.408. The manufacturer shall also be advised in the notice that any information upon which the Preliminary Determination has been based, such as test results and records of investigations, shall be available for inspection by the manufacturer.

(iii) Promptly upon receipt of a manufacturer's request for a hearing or presentation of views, one shall be provided pursuant to 3282.152.

(3) Final Determination. If the manufacturer fails to respond to the Secretary's notice of Preliminary Determination or if the Secretary decides that the views and evidence presented by the manufacturer or others are insufficient to rebut the preliminary determination, the Secretary shall make a final determination that an imminent safety hazard or serious defect exists. In the event of a final determination, the Secretary shall direct the manufacturer to furnish notification and, where applicable, to correct the defect or hazards and to submit a plan in accordance with 3282.410. The Secretary's order shall be published in the Federal Register.

(b) Defects and Noncompliances. The SAA or the Secretary identified by 3282.404(d) may make a Preliminary Determination that a defect or noncompliance exists in one or more mobile homes sold or otherwise released by a manufacturer or proceed under this section where an appropriate preliminary determination has been made under 3282.405(a)(3)(ii) or a tentative finding has been made under 3282.406(d)(2)(ii), or where the SAA or the Secretary, as appropriate otherwise has information which indicates the possible existence of a defect or noncompliance.

(1) Preliminary Determination.

(i) Whenever the SAA or the Secretary acting under this paragraph determines that there is reason to believe that one or more mobile homes contain a defect or noncompliance and makes a preliminary determination to that effect, under this section or whenever the SAA or the Secretary acting under this section receives the preliminary determination of another SAA or the Secretary under 3282.405(a)(3)(ii), the SAA or the Secretary shall notify the manufacturer within 10 days of such preliminary determination and inform the manufacturer that it may request a hearing or presentation of views under subpart D to establish that there is no such defect or noncompliance.

(ii) Notice shall be sent to the manufacturer by certified mail and shall include:

(A) The preliminary determination made by the SAA or the Secretary;

(B) The factual basis for the determination;

(C) The date on which the determination was made;

(D) The identifying criteria of the mobile homes known to be affected.

The notice shall inform the manufacturer that the preliminary determination of defect or noncompliance shall become final unless the manufacturer responds within 5 days after receipt of such notice and requests a hearing or presentation of views to rebut the SAA or the Secretary's determination. The notice shall also state that any information upon which the preliminary determination of noncompliance or defect has been based, such as test results and records of investigations, shall be available for inspection by the manufacturer.

(iii) Promptly upon receipt of a manufacturer's request for a hearing or presentation of views, one shall be held pursuant to 3282.152.

(2) Final Determination.

If the manufacturer fails to respond to the notice of preliminary determination, or, if the SAA or the Secretary decides that the views and evidence presented by the manufacturer or others are insufficient to rebut the Preliminary Determination, the agency shall make a final determination that a defect or noncompliance exists. In the event of a Final Determination, the SAA or the Secretary shall direct the manufacturer to furnish notification and to submit a plan in accordance with 3282.410.

(3) Appeals.When an SAA has made a final determination that a defect or noncompliance exists, the manufacturer within 10 days after the receipt of the notice of such final determination, may request an appeal to the Secretary under 3282.309.

(c) Waiver.The formal notification requirements which would result from a determination made under this section may be waived by the SAA or the Secretary handling the matter upon receipt of satisfactory assurances from the manufacturer that:

(1) The manufacturer has identified all affected mobile homes which have been sold to purchasers, dealers and distributors;

(2) The manufacturer has performed the correction, at the manufacturer's expense, on all affected mobile homes; and

(3) The repairs, in the SAA or the Secretary's judgment, are adequate to meet the problem.

The manufacturer may, before acting under this subsection (c) obtain the concurrence of the SAA or the Secretary. Any action taken under this subsection (c) shall be completed within 30 days of the date of a Final Determination of imminent safety hazard or serious defect or 60 days of the date of a final determination of defect or noncompliance unless the SAA or Secretary agrees to a longer period of time in extraordinary circumstances.

3282.408. Required Manufacturer Correction.

(a) A manufacturer required to furnish notification under 3282.405 or 3282.407 shall correct, at its expense, any imminent safety hazard or serious defect which can be related to an error in design or assembly of the mobile home by the manufacturer, including an error in design or assembly of any component or system incorporated in the mobile home by the manufacturer.

(b) Where the manufacturer questions whether correction is required under paragraph (a) of this section, the Secretary shall provide an opportunity for a hearing or presentation of views at which interested persons may present oral and written views prior to the issuance of an order directing the manufacturer to provide correction at its expense. The procedures of 3282.152 shall apply to any proceedings which may be conducted under this section.

To the maximum extent possible, actions taken under this section shall be coordinated with actions taken under 3282.407 so that only one hearing need be held to determine both whether a defect or imminent safety hazard exists and whether correction is required.

3282.409. Reimbursement for Prior Correction by Owner.

(a) A manufacturer, required to correct under 3282.408, shall provide reimbursement for reasonable cost to an owner of an affected mobile home who chose to make the correction. Any dispute over the amount to be reimbursed shall be referred by the manufacturer to the SAA where the mobile home is located, or to the Secretary if there is no SSA in that state, and the decision of the SAA or the Secretary shall be administratively Final.

(b) Whenever a manufacturer who agreed voluntarily to correct under 3282.405(b) or 3282.407(c) finds that the owner of an affected mobile home has already corrected the failure to conform or imminent safety hazard, the manufacturer shall reimburse the owner in an amount equal to the reasonable cost to the manufacturer of making the correction.

3282.410. Manufacturer's Plan for Notification and Correction.

(a) The plan required to be submitted by 3282.405(a) and 3282.407(a)(3) and (b)(3) shall indicate how the manufacturer will fulfill its responsibilities under this section. The plan shall include a copy of the notice which meets the requirements of 3282.411.

(b) Time and manner of notification.

(1) If not waived notification of an imminent safety hazard shall be communicated within 5 days after receipt of the order approving the manufacturer's plan for notification and remedy, except that the notification shall be furnished within a shorter period if there is incorporated in the order a finding that such period is in the public interest.

(2) Notice of serious defects, defects or noncompliances shall be mailed or otherwise communicated within 10 days after receipt of the order approving the manufacturer's plan for notification shall be furnished within a shorter period if there is incorporated in the order a finding that such period is in the public interest.

(3) The plan shall provide for notification to be accomplished:

(i) By mail to the first purchaser (not including any dealer or distributor of such manufacturer) of each mobile home containing the imminent safety hazard, serious defect, defect, or noncompliance, and any subsequent purchaser to whom any warranty provided by the manufacturer or required by Federal, State or local law on such mobile home has been transferred, to the extent feasible;

(ii) By mail to any other person who is a registered owner of each mobile home containing the imminent safety hazard, serious defect, defect, noncompliance and whose name has been ascertained pursuant to 3283.211;

(iii) By mail or other more expeditious means to the dealers or distributors of such manufacturer to whom such mobile home was delivered. Where a serious defect of imminent safety hazard is involved, notification shall be sent by certified mail if it is mailed.

3282.411 Contents of Notice.

The notice shall include the following:

(a) An opening statement: "This notice is sent to you in accordance with the requirements of the National Mobile Home Construction and Safety Standards Act of 1974."

(b) The following statement, as appropriate: "(Manufacturer's name or the Secretary, or the appropriate SAA)" has determined that:

(1) An imminent safety hazard may exist in (identifying criteria of mobile home).

(2) A serious defect may exist in (identifying criteria of mobile home).

(3) A defect may exist in (identifying criteria of mobile home).

(4) (Identifying criteria of mobile home) may not comply with an applicable Federal Mobile Home Construction or Safety Standard.

(c) A clear description of the imminent safety hazard, serious defect, defect, or noncompliance which shall include:

(1) The location of the imminent safety hazard, serious defect, defect, or noncompliance in the mobile home;

(2) A description of any hazards, malfunctions, deterioration or other consequences which may result from the imminent safety hazard, serious defect, defect, or noncompliance;

(3) A statement of the conditions which may cause such consequences to arise; and

(4) Precautions if any, that the owner should take to reduce the chance that the consequences will arise before the mobile home is repaired.

(d) An evaluation of the risk to mobile home occupants' safety and the durability of the mobile home reasonably related to such imminent safety hazard, serious defect, defect, or noncompliance, including:

(1) The type of injury which may occur to occupants of the mobile home;

(2) The types of injuries which have occurred, including particularly any deaths, which appear to have resulted from the imminent safety hazard, defect or noncompliance; and

(3) Whether there will be any warning that a dangerous occurrence may take place and what that warning would be, and any signs which the owner might see, hear, smell, or feel which might indicate danger or deterioration of the mobile home as a result of the imminent safety hazard, serious defect, defect, or noncompliance.

(e) A statement of the measures needed to repair the imminent safety hazard, serious defect, defect, or noncompliance, in accordance with whichever of the following is appropriate:

(1) Where the manufacturer must bring the mobile home into compliance with applicable standards and correct the imminent safety hazard, have it corrected at no cost to the owner pursuant to 3282.408, the statement shall include:

(i) A statement that the correction will be made at the manufacturer's expense;

(ii) A general description of the work involved in the repair;

(iii) The manufacturer's estimates of the date on which the manufacturer's agents will make the repair;

(iv) The method by which the owner will be contacted further when the repair date is to be carried out;

(v) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the imminent safety hazard or serious defect;

(vi) Any other information set out in the plan for notification which may be helpful to the owner.

(2) When the manufacturer does not bear the cost of repair, the notifications shall include:

(i) A statement that the manufacturer is not required by the Act to remedy without charge;

(ii) A description, including approximate price, of all material that must be added or replaced;

(iii) A description of any modifications that must be made to existing materials;

(iv) A detailed description, including appropriate illustrations, of each step required for correction;

(v) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect;

(3) Where a determination has been made that notification is required, but a final determination has not been made as to the manufacturer's responsibility to bear the cost of correction, the Secretary may, after providing an opportunity for a hearing or presentation of views under 3282.152, direct the manufacturer to issue a notification with a statement that the issue is being considered and, that a further notification will be sent when a determination has been made under 3282.408.

(f) A statement informing the owner that he may submit a complaint to the Secretary if the owner believes that:

(1) The notification or the remedy described therein is inadequate; or

(2) The manufacturer has failed or is unable to remedy the problem in accordance with his notification; or

(3) The manufacturer has failed or is unable to remedy within a reasonable time after the owner's first attempt to obtain remedy; or

(g) A statement that any actions taken by the manufacturer under the Act in no way limit the rights of the owner or any other person under any contract or other applicable law and that the owner may have further rights under contract or other applicable law.

3282.412. Time for Implementation of Plan.

The manufacturer's plan submitted under 3282.410 shall provide for implementation of notification and correction actions as follows:

(a) Imminent safety hazards. Implementation of the plan for notification and correction shall be completed within 30 days from the date of discovery or Final Determination of an imminent safety hazard or serious defect.

(b) Defects and Noncompliances. Implementation of the manufacturer's plan for notification shall be completed within 60 days from the date of discovery or final determination of defect or noncompliance.

(c) The Secretary may grant an extension of time for implementing the plan where the manufacturer shows good cause for the delay and the Secretary determines the extension is justified as extraordinary circumstances. When the Secretary grants an extension, the Secretary shall notify the manufacturer and publish notice of such extension in the Federal Register. The manufacturer shall implement its plan for notification and correction as approved by the Secretary.

3282.413. Completion of Remedial Actions and Report.

(a) Where a manufacturer is required to provide notification under this subpart, the manufacturer shall maintain in its files for five years from the date the notification campaign is completed a copy of the notice sent and a complete list of the people and their addresses.

(b) Where a manufacturer is required to provide correction under 3282.408, or where the manufacturer otherwise corrects under 3282.404(c)(2)(i), 3282.405(b) or 3282.407(c), the manufacturer shall maintain in its files, for five years from the date the correction campaign is completed, one of the following, as appropriate:

(1) A statement signed by the owner to the effect that the problem appears to have been corrected and that the owner is satisfied with the correction,

(2) Where the owner refuses to sign such a statement, a certification by the manufacturer that the repair was made to the standards in effect at the time the mobile home was manufactured, that any imminent safety hazard has been eliminated, and that the owner has refused to sign the statement in the previous paragraph, or

(3) Where the owner refuses to allow the manufacturer to repair the home, a certification by the manufacturer that it has informed the owner of the problem which may exist in the mobile home, that it has informed the owner of any risk to safety or durability of the mobile home which may result from the problem, and that the manufacturer has attempted to repair the problems only to have the owner refuse the repair.

(c) If any actions taken under 3282.404(c)(2)(i), 3282.405(b) or 3282.407(c) are found by the SAA of the State in which the home is located or by the Secretary not to meet the standards or otherwise not to be adequate under the approved plan, the manufacturer may be required to provide notification or correction pursuant to this subpart.

(d) If, in the course of making corrections under any of the provisions of this subpart, the manufacturer creates an imminent safety hazard or serious defect the manufacturer shall correct the imminent safety hazard or serious defect under 3282.408.

(e) Upon completion of an approved plan and upon completion of any remedial actions under this subpart except repairs made under 3282.404(c)(2)(i), the manufacturer shall, within 30 days of the time limits set out in 3282.412, provide a complete report of the section taken to the agency which provided the plan under 3282.405 or 3282.410 or which would have approved the plan had one been required and any agency which contacted the manufacturer under 3282.406(a) concerning the problem. This report shall identify by serial numbers the homes affected. The number of homes found to have the failure to conform or imminent safety hazard, and where in the distribution chain (manufacturer, distributor, dealer, purchaser, owner) they were found.

3282.414. Replacement or Repurchase of Mobile Home from Purchaser.

(a) Whenever an imminent safety hazard or serious defect which must be corrected by the manufacturer at his expense under 3282.408 is of such severity that it cannot be repaired within 60 days in accordance with Section 615(i) of the Act, the Secretary may require—

(1) That the mobile home be replaced by the manufacturer with a mobile home substantially equal in size, equipment, and quality, and either new or in the same condition the defective mobile home would have been in at the time of discovery of the imminent safety hazard or serious defect had the imminent safety hazard or serious defect not existed; or

(2) That the manufacturer take possession of the mobile home and refund the purchase price in full, less a reasonable allowance for depreciation based on actual use if the home has been in the possession of the owner for more than one year. Such depreciation shall be based upon an appraisal system approved by the Secretary, and shall not take into account damage or deterioration resulting from the imminent safety hazard or serious defect.

(b) In determining whether to order replacement or refund by the manufacturer, the Secretary shall consider:

(1) The threat of injury or death to mobile home occupants;

(2) Any costs and inconvenience to mobile home owners which will result from the lack of adequate repair within the specified period;

(3) The expense to the manufacturer;

(4) Any obligations imposed on the manufacturer under contract or other applicable law of which the Secretary has knowledge; and

(5) Any other relevant factors which may be brought to the attention of the Secretary.

(c) In those situations where under contract or other applicable law the owner has the right of election between replacement and refund, the manufacturer shall inform the owner of such right of election and shall inform the Secretary of the election, if any, by the owner.

(d) This section applies where an attempted correction of an imminent safety hazard or serious defect relieves the safety problem but does not bring the home in conformity to the standards.

(e) Where replacement or refund by the manufacturer is ordered under this section, it shall be carried out within 30 days of the Secretary's order to replace the mobile home or refund the purchase price unless the Secretary, for good cause shown, grants an extension of time for implementation of such order and publishes notice of extension in the Federal Register.

3282.415. Mobile Homes in the Hands of Dealers and Distributors.

(a) The manufacturer is responsible for correcting any failures to conform and imminent safety hazards which exist in mobile homes which have been sold or otherwise released to a distributor or dealer but which have not yet been sold to a purchaser. This section sets out the procedures to be followed by dealers and distributors for handling mobile homes in such cases.

(b) Whenever a dealer or distributor finds a problem in a mobile home which the manufacturer is responsible for correcting under paragraph (a) of this section, the dealer or distributor shall contact the manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer in accordance with paragraph (c) of this section. Where the manufacturer agrees to correct, the manufacturer shall maintain a complete record of its actions. Where the manufacturer authorized the dealer to make the necessary corrections on a reimbursable basis, the dealer or distributor shall maintain a complete record of its actions. Agreement by the manufacturer to correct or to authorize corrections on a reimbursable basis under this subsection constitutes a determination of the Secretary for purposes of Section 613(b) of the act with respect to judicial review of the amount which the manufacturer agrees to reimburse the dealer or distributor for corrections.

(c) Upon a final determination by the Secretary or a State Administrative Agency under 3282.407, or upon a determination by a court of competent jurisdiction that a mobile home fails to conform to the standard or contains an imminent safety hazard after such mobile home is sold or otherwise resold by a manufacturer to a distributor or a dealer and prior to the sale of such mobile home by such distributor or dealer to a purchaser, the manufacturer shall have the option either to:

(1) Immediately furnish, at the manufacturer's expense, to the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such mobile home, and shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than one per centrum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of noncompliance to the date such mobile home is brought into compliance with the standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the part or component is received; or

(2) Immediately repurchase, at the manufacturer's expense, such mobile home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than one per cent per month of such price paid prorated from the date of receipt by certified mail of notice of the imminent safety hazard, serious defect, defect or noncompliance to the distributor. The value of such reasonable reimbursements as specified in this paragraph shall be fixed by mutual agreement of the parties or by a court in an action brought under Section 613(b) of the Act.

(d) This section shall not apply to any mobile home purchased by a dealer or distributor which has been leased by such dealer or distributor to a tenant for purposes other than resale. In that instance the dealer or distributor has the remedies available to a purchaser under this subpart.

3282.416. Notices, Bulletins and Other Communications.

Each manufacturer shall, at the time of dispatch, furnish to the Secretary a true or representative copy of all notices, bulletins, and other written communications to the dealers or distributors of such manufacturer or purchasers or owners of mobile homes of such manufacturer regarding any serious defect or imminent safety hazard which may exist in any such mobile homes produced by such manufacturer. Manufacturers shall keep complete records of all other communications with dealers, owners, and purchasers regarding insignificant noncompliances, noncompliances, and defects.

3282.417. Supervision of Notification and Correction Actions.

(a) The IPIA in each manufacturing plant shall be responsible for assuring that notifications are sent to all owners, purchasers, dealers, or distributors of whom the manufacturer has knowledge under 3282.418 or otherwise as required by these regulations, and the IPIA shall be responsible for assuring that the required corrections are carried out by auditing the certifications required by 3282.412.

(b) The SAA or Secretary to which the report required by 3282.413(e) is sent shall be responsible for assuring through oversight that remedial actions described in the report have been carried out as described in the report.

(c) The SAA of the state in which an affected mobile home is located may inspect that mobile home to determine whether any required correction is carried out to the approved plan or, if there is no plan, to the standards or other approval obtained by the manufacturer under 3282.405(b) or 3282.407(c).

Subpart J. Monitoring of Primary Inspection Agencies

3282.451. General.

The actions of all primary inspection agencies accepted under Subpart H shall be monitored by the Secretary or the Secretary's agent to determine whether the PIAs are fulfilling their responsibilities under these regulations. This monitoring shall be carried out primarily through joint monitoring teams made up of personnel supplied by SAAs and by the Secretary or the Secretary's agent. Monitoring parties shall make recommendations to the Secretary with respect to final acceptance of PIAs under 3282.361(e) and 3282.362(e), continued acceptance, and disqualification or requalification under 3282.356, and with respect to any changes which PIAs should make in their operations in order to continue to be approved. Based on this monitoring, the Secretary shall determine whether PIAs should continue to be approved under these regulations.

3282.452. Participation in Monitoring.

(a) Joint Monitoring Teams.

(1) The Secretary or the Secretary's agent shall develop and coordinate joint monitoring teams which shall be made up of qualified personnel provided by SAAs and by the Secretary or Secretary's agent. The Secretary or the Secretary's agent shall determine whether personnel are qualified based on education or experience.

(2) The joint monitoring teams will operate generally on a regional basis. To the extent possible the teams shall be so scheduled that personnel provided by an SAA will be monitoring operations in mobile home plants from which mobile homes are shipped into their State.

(3) Personnel from an SAA shall not participate on joint monitoring teams operating within their State.

(4) States are encouraged but not required to participate on joint monitoring teams.

(b) State Monitoring. A state may carry out monitoring of IPIA functions at plant facilities within the State if the State is not acting as an IPIA. Where a State wishes to carry out monitoring activities it shall do so in coordination with the Secretary and the Secretary's agent. To the extent that the State is performing adequate monitoring, the frequency of the joint team monitoring may be reduced to one visit per year consistent with the requirements of 3282.453.

(c) Review of Staff Capability. The monitoring party shall review the capability of the PIA's staff to perform the functions it is required to perform.

(d) Review of Interpretations. The monitoring party shall review all records of interpretations of the standards made by the PIA to determine whether they are consistent and to determine whether there are any conflicts which should be referred to the Secretary for determination.

(e) DAPIA. Monitoring parties shall review on a random basis at least 10 percent of the design and quality assurance manual approvals made by each DAPIA in each year.

(f) IPIA. The monitoring parties shall assure that the IPIAs are carrying out all of the functions for which they have been accepted. In particular, they shall assure that the manufacturing process is as stated in the certification reports, that the IPIAs are carrying out the required number of inspections, that inspections are effective, and that the IPIAs are maintaining complete label control as required by 3282.362. A monitoring team shall monitor the IPIA's office procedures, files, and label control and the monitoring team shall send copies of its report to the Secretary or the Secretary's agent, which shall send copies to all monitoring teams which monitor the operations of the subject IPIA.

(g) Remedial Actions.The monitoring parties shall review the remedial action records of the manufacturers and of the primary inspection agencies closely to determine whether the primary inspection agencies have been carrying out their responsibilities with respect to remedial actions.

3282.453. Frequency and Extent of Monitoring.

(a) The actions of all primary inspection agencies shall be monitored at a frequency adequate to assure that they are performing consistently and fulfilling their responsibilities under these regulations. Every aspect of the primary inspection agencies' performance shall be monitored.

(b) Frequency of monitoring.The performance of each primary inspection agency shall be monitored during its period of provisional acceptance by a complete review of its records and, in the case if IPIAs, by a complete inspection of the operations of at least one manufacturing plant which it has approved or in which it is operating. After the initial inspection, the performance of each primary inspection agency shall be monitored four times per year, except that the number of monitoring visits may be decreased to a minimum of one per year if the performance of the primary inspection agency is deemed by the Secretary or the Secretary's agent to be superior, and it may be increased as necessary if performance is suspect. There shall be a minimum of one review per year of the records of each primary inspection agency, and there shall be more reviews as needed.

3282.454. Monitoring Inspection Fee.

(a) There is hereby established a monitoring inspection fee of $19.00 which is to be paid by manufacturers for each mobile home manufactured in non–approved and conditionally approved states as described in 3282.210.

(b) The monitoring inspection fee to be established by approved states under 3282.307(a) shall be in the amount of $19.00 per mobile homes produced therein.

Subpart K. Departmental Oversight

3282.501. General.

The Secretary shall oversee the performance of SAAs, the Secretary's agent, and primary inspection agencies as follows:

(a) The Secretary shall review SAA reports to ensure that States are taking appropriate actions with regard to the enforcement of the standards and with respect to the functions for which they are approved under these regulations.

(b) The Secretary shall review monitoring reports submitted by the Secretary's agent to determine that it is performing in accordance with the contract between it and the Secretary.

(c) The Secretary shall review monitoring reports to determine whether PIAs are fulfilling their responsibilities under these regulations.

(d) The Secretary shall make random visits for the purpose of overseeing the activities of SAAs and the Secretary's agent.

(e) The Secretary shall take such other actions to oversee the system established by these regulations as it deems appropriate.

(f) All records maintained by all parties acting under these regulations with respect to those actions shall be available to the Secretary, the Secretary's agent, and where appropriate, SAAs and PIAs for review at any reasonable time.

3282.502. Departmental Implementation.

To the extent that SAAs or any parties contracting with the Secretary do not perform functions called for under these regulations, those functions shall be carried out by the Secretary with its own personnel or through other appropriate parties.

3282.503. Determinations and Hearings.

The Secretary shall make all the determinations and hold such hearings as are required by these regulations, and the Secretary shall resolve all disputes arising under these regulations.

Subpart L. Manufacturer, IPIA and SAA Reports

3282.551. Scope and Purpose.

This subpart describes the reports which shall be submitted by manufacturers, PIAs and SAAs as part of the system of enforcement established under these regulations. Additional reports described in Subpart I are required when corrective actions are taken under that subpart.

3282.552. Manufacturer Reports for Joint Monitoring Fees.

For each month, the manufacturer shall submit to the IPIA in each of its manufacturing plants a report that includes the serial numbers of each mobile home manufactured at that plant during that preceding month, and the State of first location, after leaving the manufacturing plant, of such mobile homes. The State of first location for the purpose of this report is the State of the premises of the distributor, dealer or purchaser to whom the mobile home is first shipped. The report for each month shall be submitted by the tenth day of the following month.

3282.553. IPIA Reports.

Each IPIA shall submit by the twentieth day of each month to each SAA, or if no SAA to the Secretary, in each state where it is engaged in the inspection of manufacturing plants, a report of the operations of each manufacturer in that State for the preceding month which includes the following information:

(a) the number of single–wide and double–wide mobile homes labeled in the preceding month;

(b) the number of inspection visits made to each manufacturing plant in the preceding month; and

(c) the number of mobile homes with a failure to conform to the standards or an imminent safety hazard during the preceding month found in the manufacturing plant.

The manufacturers report for the preceding month described in 3282.552 shall be attached to each such IPIA report as an appendix thereto.

3282.554. SAA Reports.

Each SAA shall submit, prior to the last day of each month, to the Secretary a report covering the preceding month which includes:

(a) The description and status of all presentations of views, hearings and other legal actions during the preceding month; and

(b) The description of the SAA's oversight activities and findings regarding consumer complaints, notification and correction actions during the preceding month. The IPIA report for the preceding month described in 3282.553, as well as the reports described in 3282.413 and manufacturer reports under 3282.404(d), which were received during the preceding month, shall be attached to each such SAA report as an appendix thereto.

HISTORY

1. Amendment of quoted Sections 3282.7, 3282.8, 3282.205, 3282.207 and 3282.401 filed 9–8–76 as procedural and organizational; effective upon filing (Register 76, No. 37).
2. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
3. Editorial correction restoring inadvertently omitted quoted sections 3282.303–3282.306 (Register 96, No. 37).

Subarticle 3. Mobile Home Construction and Safety Standards

§ 4070. Mobile Home Construction and Safety Standards.

Regulations of the United States Department of Housing and Urban Development relating to mobile home construction and safety are applicable to mobile homes bearing or required to bear either a department insignia or Title VI label to the extent prescribed in this subchapter and are reproduced as follows.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055, 18055.5. Health and Safety Code.

HISTORY

1. Amendment filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 18).

Part 280 Mobile Home Construction and Safety Standards

Subpart A. General

280.1. Scope.

(a) This standard covers all equipment and installations in the design, construction, fire safety, plumbing, heat–producing and electrical systems of mobile homes which are designed to be used as dwelling units. The Secretary may approve such equipment and installations which are listed or labeled by an approved testing or listing agency. Equipment and installations not listed or labeled may be approved by the Secretary upon a determination that such equipment and installations are adequate for the protection of health, safety and the general welfare.

(b) These Federal Mobile Home Construction and Safety Standards seek, to the maximum extent possible, to establish performance requirements. In certain instances, however, the use of specific requirements in the Standard is necessary because, at this time, that is the best available means of identifying the desired performance. The use of specific requirements is not intended to prohibit the utilization of any material, piece of equipment, or system which does not meet precise specifications set out in the standard is shown, to the satisfaction of the Secretary, to meet the level of performance of a material, piece of equipment or system which meets the precise specifications, the Secretary may waive the specifications set out in the standard for that material, piece of equipment, or system. Whenever a waiver is issued, the Secretary shall issue an interpretative bulletin which announces the waiver, states that the material, piece of equipment or system meets the required standard of performance, and sets out any limitations or other requirements with respect to how the material, piece of equipment, or system must be used, including any tests of the material, piece of equipment, or system which the Secretary determines must be carried out before it can be used. Where a waiver has been issued, the requirements of the section of the Federal standard to which the waiver relates may be met either by meeting the specifications set out in the standard or by meeting any requirements set out in the interpretative bulletin which announces the waiver.

(c) Interpretative bulletins may also be issued for he following purposes:

(1) to clarify the meaning of the standard; and

(2) to assist in the enforcement of the standard.

280.2 Definitions.

(a) Definitions in this Subpart are those common to all Subparts of the standard and are in addition to the definitions provided in individual parts.

(1) "Approved," when used in connection with any material, appliance or construction, means complying with the requirements of the Department of Housing and Urban Development.

(2) "Center" means the midline between the right and left side of a mobile home.

(3) "Certified." See "listed."

(4) "Combustible Material" means materials made of, or surfaced with, wood, compressed paper, plant fibers, or other material that will ignite and burn. Such materials shall be considered as combustible even though flame–proofed, fire–retardant treated or plastered.

(5) "Defect" includes any defect in the performance, construction, components, or material of a mobile home that renders the home or any part thereof not fit for the ordinary use for which it was intended.

(6) "Department" means the Department of Housing and Urban Development.

(7) "Dwelling Unit" means one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

(8) "Equipment" includes materials, appliances, devices, fixtures, fittings or accessories both in the construction of, and in the fire safety, plumbing, heat–producing and electrical systems of mobile homes.

(9) "Federal mobile home construction and safety standard" means a reasonable standard for the construction, design, and performance of a mobile home which meets the needs of the public including the need for quality, durability, and safety.

(10) "Imminent safety hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury.

(11) "Installations" means all arrangements and methods of construction, as well as fire safety, plumbing, heat–producing and electrical systems used in mobile homes.

(12) "Labeled" means a label, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of production of labeled equipment or materials, and by whose labeling is indicated compliance with nationally recognized standards or tests to determine suitable usage in a specified manner.

(13) "Length of a Mobile Home" means the distance from the exterior of the front wall (nearest to the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments.

(14) "Listed or Certified" means included in a list published by a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of production of listed equipment or materials, and whose listing states either that the equipment or material meets nationally recognized standards or has been tested and found suitable for use in a specified manner.

(15) "Manufacturer" means any person engaged in manufacturing or assembling mobile homes, including any person engaged in importing mobile homes for resale.

(16) "Mobile Home" means a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty–two body feet or more in length, and which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air–conditioning, and electrical systems contained therein.

(17) "Mobile Home Construction" means all activities relating to the assembly and manufacture of a mobile home including, but not limited to, those relating to durability, quality and safety.

(18) "Mobile Home Safety" means the performance of a mobile home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur.

(19) "Registered Engineer or Architect" means a person licensed to practice engineering or architecture in a state and subject to all laws and limitations imposed by the state's Board of Engineering and Architecture Examiners and who is engaged in the professional practice of rendering service or creative work requiring education, training and experience in engineering sciences and the applications of special knowledge of the mathematical, physical and engineering sciences in such professional or creative work as consultation, investigation, evaluation, planning or design and supervision of construction for the purpose of securing compliance with specifications and design for any such work.

(20) "Secretary" means the Secretary of Housing and Urban Development, or an official of the Department delegated the authority of the Secretary with respect to Title VI of Public Law 93–383.

(21) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Somoa.

(22) "Width of a Mobile Home" means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, wall and roof extensions, or other attachments.

280.3. Acceptance of Plans.

(a) Each manufacturer of mobile homes shall submit the building plans for every model of such mobile home to the Secretary, or Secretary's designee, for the purpose of inspection for conformance to this standard.

(b) The manufacturer shall certify that each such building plan meets the Federal construction and safety standard in force at that time before the mobile home involved is produced.

(c) Regulations pertaining to enforcement of these standards and to labeling of mobile homes shall be as prescribed by the Secretary.

280.4. Incorporation by Reference.

(a) The specifications, standards and codes of agencies of the U.S. Government, to the extent they are incorporated by reference in this standard, have the same force and effect as this standard. Wherever reference standards and this standard are inconsistent, the requirements of this standard prevail to the extent of the inconsistency.

(b) The abbreviations and sources of these referenced standards, specifications and codes appear below:

AA—The Aluminum Association, 750 Third Avenue, New York, N.Y. 10017.

ABPA—Acoustical and Board Products Association, 205 West Touhy Avenue, Chicago, Illinois 60068.

AGA—American Gas Association Laboratories, 8501 East Pleasant Valley Road, Cleveland, Ohio 44131.

AISC—American Institute of Steel Construction, 1221 Avenue of the Americas, New York, New York 10020.

AISI—American Iron and Steel Institute, 1000 16th Street, N.W., Washington, D.C. 20036.

AITC—American Institute of Timber Construction, 333 W. Hampden Avenue, Englewood, Colorado 80110.

ANSI—American National Standards Institute, 1430 Broadway, New York, New York 10017.

APA—American Plywood Association, 1119 A Street, Tacoma, Wash. 98401.

ASHRAE—American Society of Heating Refrigeration and Air–Conditioning Engineers, 345 East 47th Street, New York, New York 10017.

ASME—American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.

ASTM—American Society of Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

CMI—Cultured Marble Institute, 230 North Michigan Avenue, Chicago, Illinois 60601.

CS—Commercial Standards—Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

DOC—Department of Commerce, Washington, D.C. 20230.

DOT—Department of Transportation, Washington, D.C. 20590.

FHDA—Fir and Hemlock Door Association, Yeon Building, Portland, Oregon 97204.

FS—Federal Specification—Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

GAL—Gas Appliance Laboratory, 3138 East Olympic Boulevard, Los Angeles, California 90023.

HPMA—Hardwood Plywood Manufacturers Association, P.O. Box 6246, Arlington, Virginia 22206.

HVI—Home Ventilating Institute, 230 North Michigan Avenue, Chicago, Illinois 60601.

IAMPO—International Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, California 90032.

I-SANTA—Industrial Staple and Nail Technical Association, P.O. Box 3072, City of Industry, California 91744.

NFPA—National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts.

(N)FPA—National Forest Products Association (formerly National Lumber Manufacturers Associations), 1619 Massachusetts Ave., Wash., D.C. 20036.

NPA—National Particleboard Association, 2306 Perkins Place, Silver Spring, Maryland 20910.

NSF—National Sanitation Foundation, 3475 Plymouth Road, Ann Arbor, Michigan 48105.

NWMA—National Woodwork Manufacturers Association, 400 West Madison Street, Chicago, Illinois 60606.

PS—Product Standard-Superintendent of Documents, U.S. Government Printing Office. Washington, D.C. 20402.

SJI—Steel Joist Institute, 2001 Jefferson Davis Highway, Arlington, Virginia 22202.

TPI—Truss Plate Institute, Suite 200, 7100 Baltimore Avenue, College Park, Maryland 20740.

UL—Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Illinois 60611.

280.5. Data Plate.

(a) Each mobile home shall bear a data plate affixed in a permanent manner near the main electrical panel or other readily accessible and visible location. Data plates shall bear not less than the following information.

(1) The manufacturer's name and address.

(2) The serial number and the model number of the unit and date the unit was manufactured.

(3) The statement, "The mobile home is designed to comply with the Federal mobile home construction and safety standard in force at the time of manufacture."

(4) Factory installed equipment, the manufacturer's name and the model designation of major factory-installed appliances.

(5) Reference to the structural zone and wind zone for which the home is designed and duplicates of the maps as set forth in 280.305(c)(4). This information may be combined with the heating/cooling certificate and insulation zone maps required by 280.510 and 280.511.

280.6. Serial Number.

(a) A mobile home serial number which will identify the manufacturer and the state in which the mobile home is manufactured, must be stamped into the foremost cross member. Letters and numbers must be 3/8-inch minimum in height. Numbers must not be stamped into hitch assembly or drawbar.

280.7. Modular Homes.

A structure which meets the definition of "mobile home" set out in 280.2(a)(16) is not subject to the provisions of this part if it enters the first stage of production before 150 days after June 15, 1976 and meets any one of the following criteria.

(a) The structure is manufactured in accordance with and meets the following codes published by Building Officials and Code Administrators (BOCA) and the National Fire Protection Association (NFPA):

(1) BOCA Basic Building Code-1975;

(2) BOCA Basic Industrialized Dwelling Code-1975;

(3) BOCA Basic Mechanical Code-1975;

(4) BOCA Basic Plumbing Code-1975; and

(5) National Electrical Code-NFPA 70-1975;

(b) The structure is manufactured in accordance with and meets the following codes published by the Southern Building Code Congress (SBCC) and the NFPA:

(1) Southern Standard Building Code-1976;

(2) Southern Standard Gas Code-1976;

(3) Southern Standard Mechanical Code-1976;

(4) Southern Standard Plumbing Code-1975, with 1976 revision; and

(5) National Electrical Code-NFPA 70-1975

(c) The structure is manufactured in accordance with and meets the following codes published by the International Conference of Building Officials (ICBO) and the NFPA:

(1) Uniform Building Code-1973;

(2) Uniform Plumbing Code-1973;

(3) Uniform Mechanical Code-1973; and

(4) National Electrical Code-NFPA 70-1975.

(d) The structure meets a standard established by a state for modular homes, as distinct from mobile homes as they are defined by the state.

(e) The structure is built in accordance with an FHA Structural Engineering Bulletin and FHA minimum Property Standards and is eligible for long-term financing under section 203(b) of the National Housing Act, 12 U.S.C. 1701 et seq: Provided, that any aspects of the cited codes or any state codes which are intended to apply to mobile homes, as such codes may define them, are preempted by the comparable aspects of the Federal standards.

Subpart B. Planning Considerations

280.101. Scope.

Subpart B states the planning requirements in mobile homes. The intent of this subpart is to assure the adequacy of architectural planning considerations which assist in determining a safe and healthful environment.

280.102. Definitions.

(a) "Gross Floor Area" means all space, wall to wall, including recessed entries not to exceed 5 sq. ft. and areas under built-in vanities and similar furniture. Where the ceiling height is less than that specified in 280.104, the floor area under such ceilings shall not be included. Floor area of closets shall not be included in the gross floor area.

(b) "Habitable Room" means a room or enclosed floor space arranged for living, eating, food preparation, or sleeping purposes not including bathrooms, foyers, hallways, and other accessory floor space.

(c) "Laundry Area" means an area containing or designed to contain a laundry tray, clothes washer and/or clothes dryer.

280.103. Light and Ventilation.

Provisions shall be made for adequate light and ventilation in accordance with the following:

(a) Each habitable room shall be provided with exterior windows and/or doors having a total glazed area of not less than 8 percent of the gross floor area. An area equivalent to not less than 4 percent of the gross floor area shall be available for unobstructed ventilation. Glazed areas need not be openable where a mechanical ventilation system is provided and is capable of producing a change of air in the room(s) every 30 minutes with not less than one-fifth of the air supply taken from outside the mobile home. Windows and doors used for light or ventilation shall open directly to the outside of the home.

(b) In lieu of the requirements in 280.103(a), kitchens may be provided with artificial light and mechanical ventilation capable of producing a change of air in the room every 30 minutes. (See 280.710).

(c) Bathroom and toilet compartments. Each bathroom and toilet compartment shall be provided with artificial light and, in addition, be provided with external windows or doors having not less than 1–1/2 sq. ft. of fully openable glazed area, except where a mechanical ventilation system is provided capable of producing a change of air every 12 minutes. Any mechanical ventilation system shall exhaust directly to the outside of the mobile home.

280.104. Ceiling Heights.

(a) Every habitable room and bathroom shall have a minimum ceiling height of not less than 7 feet, 0 inches for a minimum of 50 percent of the room's floor area. The remaining area may have a ceiling with a minimum height of 5 feet, 0 inches. Minimum height under dropped ducts, beams, etc. shall be 6 feet, 4 inches.

(b) Hallways and foyers shall have a minimum ceiling height of 6 feet, 6 inches.

280.105. Exit Facilities; Exterior Doors.

(a) Number and location of exterior doors. Mobile homes shall have a minimum of two exterior doors located remote from each other.

(1) Required egress doors shall not be located in rooms where a lockable interior door must be used in order to exit.

(2) In order for exit doors to be considered "remote" from each other, they must comply with all of the following: (i) Both of the required doors must not be in the same room or in a group of rooms which are not defined by fixed walls. (ii) Single wide units. Doors may not be less than 12 ft. c–c from each other as measured in any straight line direction regardless of the length of path of travel between doors. (iii) Double wide units. Doors may not be less than 20 ft. c–c from each other as measured in any straight line direction regardless of the length of path of travel between doors. (iv) One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 ft.

(b) Door design and construction.

(1) Exterior swinging doors shall be constructed in accordance with 280.405 the "Standard for Swinging Exterior Passage Doors for Use in Mobile Homes." Exterior sliding glass doors shall be constructed in accordance with 280.403 the "Standard for Windows and Sliding Glass Doors Used in Mobile Homes."

(2) All exterior swinging doors shall provide a minimum 28 inch wide by 74 inches high clear opening. All exterior sliding glass doors shall provide a minimum 28 inch wide by 72 inch high clear opening.

(3) Each swinging exterior door other than screen or storm doors shall have a key–operated lock that has a deadlocking latch or a key–operated dead bolt with a passage latch. Locks shall not require the use of a key for operation from the inside.

(4) All exterior doors, including storm and screen doors, opening outward shall be provided with a safety door check.

280.106. Exit Facilities; Egress Windows.

(a) Every room designed expressly for sleeping purposes, unless it has an exit door (See 280.105), shall have at least one outside window or approved device which meets the requirements of 280.404 the "Standard for Egress Windows for Use in Mobile Homes."

(b) The bottom of the window opening shall not be more than 36 inches above the floor.

(c) Locks, latches, operating handles, tabs and any other window, screen or storm window devices which need to be operated in order to permit exiting shall not be located in excess of 60 inches from the finished floor.

280.107. Interior Privacy.

Bathroom and toilet compartment doors shall be equipped with a privacy lock.

280.108. Interior Passage.

(a) Interior doors having passage hardware without a privacy lock, or with a privacy lock not engaged, shall open from either side by a single movement of the hardware mechanisms in any direction.

(b) Each mobile home interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button, or other locking device on the inside.

280.109. Space Planning.

The dimensions set forth in 280.110 through 280.113 are intended to assure that space and a functional arrangement of this space are provided to accommodate the normal activities of living in the mobile home.

280.110. Room Requirements.

(a) Every mobile home shall have at least one living area with not less than 150 sq. ft. of gross floor area.

(b) Rooms designed for sleeping purposes shall have a minimum gross square foot floor area as follows:

(1) All bedrooms shall have at least 50 sq. ft. of floor area.

(2) Bedrooms designed for two or more people shall have 70 sq. ft. of floor area plus 50 sq. ft. for each person in excess of two.

(c) Every room designed for sleeping purposes shall have accessible clothes hanging space with a minimum inside depth of 22 inches and shall be equipped with a rod and shelf.

280.111. Minimum Room Dimensions.

The gross floor area required by 280.110(a) and (b) shall have no clear horizontal dimension less than 5 feet except as permitted by 280.102(a).

280.112. Toilet Compartments.

Each toilet compartment shall be a minimum of 30 inches in width, except, when the toilet is located adjacent to the short dimension of the tub, the distance from the tub to the center line of the toilet shall not be less than 12 inches. At least 21 inches of clear space shall be provided in front of each toilet.

280.113. Hallways.

Hallways shall have a minimum horizontal dimension of 28 inches measured from the interior finished surface to the interior finished surface of the opposite wall. When appliances are installed in a laundry area, the measurement shall be from the front of the appliance to the opposite finished interior surface. When appliances are not installed and a laundry area is provided, the area shall have a minimum clear depth of 27 inches in addition to the 28 inches required for passage. In addition, a notice of the available clearance for washer/dryer units shall be posted in the laundry area. Minor protrusions into the minimum hallway width by doorknobs, trim, smoke detectors or light fixtures are permitted.

280.114. Glass and Glazed Openings.

(a) Windows and sliding glass doors. All windows and sliding glass doors shall meet the requirements of 280.403 the "Standard for Windows and Sliding Glass Doors Used in Mobile Homes."

(b) Safety glazing. Glazing in all entrance or exit doors, sliding glass door units (fixed or moving sections), unframed glass doors, unbacked mirrored wardrobe doors (i.e. mirrors not secured to a backing capable of being the door itself), shower and bathtub enclosures and surrounds to a height of 6 feet above the bathroom floor level, storm doors or combination doors, and in panels located within 12 inches on either side of exit or entrance doors shall be of a safety glazing material. Safety glazing material is considered to be any glazing material capable of passing the requirements of ANSI Z97.1–72.

Subpart C. Fire Safety

280.201. Scope.

The purpose of Subpart C of this standard is to specify measures which will provide a reasonable degree of safety from fire for the occupants. It is the intent of this Subpart that mobile homes shall be constructed so as to reduce fire hazards and provide detection of a fire for safe egress.

280.202. Definitions.

(a) The following definitions are applicable to Subpart C only:

(1) "Flame Spread" means the propagation of flame over a surface.

(2) "Interior finish" means the surface material of walls, fixed or movable partitions, ceilings and other exposed interior surfaces affixed to the

mobile home structure including any materials such as paint or wallpaper and the substrate to which they are applied. Interior finish does not include windows and doors or their frames, skylight, trim, moldings, decorations or furnishing which are not affixed to the mobile home structure.

(3) "Single Station Alarm Device" means an assembly incorporating the smoke detector sensor, the electrical control equipment requirement, and the alarm–sounding device in one unit.

(4) "Smoke Detector" means wall mounted detector of the ionization chamber or photoelectric type which detects visible or invisible particles of combustion and operates from the 120 V AC source of electrical power supply.

280.203. Flame Spread Limitations and Combustibility.

(a) Flame spread limitations. The surface flame spread rating of interior finish materials shall not exceed the following when tested by Standard Method of test for Surface Burning Characteristics of Building Materials, ASTM E84. The surface flame spread rating of interior finish materials required by 280.203(a)(4) and (6) may be established using the Surface Flammability of Materials Using a Radiant Heat Energy Source, ASTM E 162. Testing shall be by laboratories acceptable to the Secretary.

(1) The interior finish of all walls and partitions shall not have a flame spread rating exceeding 200 except as otherwise specified herein. The flame spread limitation shall not apply to; molding, trim, windows, doors or series of doors not exceeding 4 feet in width, and permanently attached decorative items such as pictures or accent panels constituting not more than 10 percent of the aggregate wall surface in any room or space nor more than 32 square feet in surface area whichever is less.

(2) All ceiling interior finish shall not have a flame spread rating exceeding 200, excluding molding and trim 2 inches or less in width.

(3) Furnace and water heater spaces shall be enclosed by walls, ceiling and doors having an interior finish with a flame spread rating not exceeding 25.

(4) Combustible kitchen cabinet doors, countertops, exposed bottoms and end panels shall not exceed a flame spread rating of 200. Cabinet rails, stiles, mullions and toe strips are exempted.

(5) Exposed interior finishes adjacent to the cooking range shall not have a flame spread rating exceeding 50. Adjacent surfaces are the exposed vertical surfaces between the range top height and the overhead cabinets and/or ceiling and within 6 horizontal inches of the cooking range.

(6) Finish surfaces of plastic bath tubs, shower units and tub or shower doors shall not exceed a flame spread rating of 200.

(b) Combustibility. The interior walls and ceiling encasing furnace and water heater enclosures (including doors) and the exposed wall adjacent to the cooking range as defined in 280.203(a)(5) shall be surfaces with 5/16 inch gypsum board or material having equivalent fire protective properties. At furnace and water heater spaces all openings for pipes and vents shall be tightfitted or firestopped.

280.204. Kitchen Cabinet Protection.

(a) The bottom and sides of combustible kitchen cabinets over cooking ranges including a space of 6 inches from the side of the cooking range shall be protected with at least 1/4–inch thick asbestos millboard covered with not less than 26 gage sheet metal (.017 stainless steel, .024 aluminum, or .020 copper) or equivalent protection. The protective metal over the range shall form a hood with not less than a 3 inch eyebrow (measuring horizontally from face of cabinet). The hood shall be centered over and at least as wide as the cooking range.

280.205. Carpeting.

(a) Carpeting shall not be used under a fuel–fired furnace or water heater.

280.206. Firestopping.

(a) Firestopping of 1 inch minimum nominal lumber or the equivalent, shall be provided to cut off all concealed draft openings in all stud walls and partitions, including furred spaces, so placed that the maximum vertical dimension of any concealed space is not over eight feet.

280.207. Requirements for Foam Plastic Thermal Insulating Materials.

(a) General. Foam plastic thermal insulating materials shall not be used within the cavity of walls or ceiling or exposed to the interior of the mobile homes, unless otherwise specifically approved by HUD, based on accepted tests including full scale room fire testing.

(b) Specific requirements. Foam plastic having a flame spread rating of 75 or less may be used as siding backer board or sheathing with a maximum of 3/8–inch thickness when separated from the interior of the mobile home by a minimum of 2–inches of mineral insulation or equivalent fire protective material.

280.208. Mobile Home Fire Detection Equipment.

(a) General. At least one smoke detector (which may be a single–station alarm device) shall be installed in each mobile home to protect each separate bedroom area.

(b) Smoke detector location. A smoke detector shall be installed in the hallway or space communicating with the bedroom area.

(1) The specific location shall be in the hallway between the living room area and the first bedroom, except that when a door(s) separates the living area from the bedroom area, the detector shall be installed on the living area side as close to the door(s) as practicable.

(2) Mobile homes having bedrooms separated by any one or combination of common use areas such as kitchens, dining room, living room or family room (but not a bathroom or utility room), shall have at least two smoke detectors, one detector protecting each bedroom area.

(3) Where practicable, the detector shall be located between the return air intake and the living area.

(4) The architectural planning of the mobile home shall not isolate a smoke detector so as to impair its effectiveness.

(c) Smoke detectors. Smoke detectors shall be either the ionization chamber or the photoelectric wall mounted type and shall comply with all the requirements of Underwriters' Laboratories Standard No. 167 for ionization and 168 for photoelectric type detectors. Detectors shall bear the label of a testing and approved under the requirements of UL 167 or 168. The testing and approved laboratory shall be one which maintains a periodic follow–up service of the labeled devices to ensure compliance with the original approval.

(d) Installation. Smoke detectors shall be installed on an interior wall of the mobile home. The top of the detectors shall be 5– to 7–inches from the ceiling. The detector mounting shall be attached to an electrical outlet box and the detector connected by a permanent wiring method into a general electrical circuit. There shall be no switches in a circuit to the detector other than the overcurrent protective device protecting the branch circuit.

Subpart D. Body and Frame Construction Requirements

280.301. Scope.

This Subpart covers the minimum requirements for materials, products, equipment and workmanship needed to assure that the mobile home will provide

(a) structural strength and rigidity,

(b) protection against corrosion, decay, insects and other similar destructive forces,

(c) protection against hazards of windstorm,

(d) resistance to the elements, and

(e) durability and economy of maintenance.

280.302 Definitions.

(a) The following definitions are applicable to Subpart D only:

(1) "Anchoring Equipment" means straps, cables, turnbuckles, and chains, including tensioning devices, which are used with ties to secure a mobile home to ground anchors.

(2) "Anchoring System" means a combination of ties, anchoring equipment, and ground anchors that will, when properly designed and installed, resist overturning and lateral movement of the mobile home from wind forces.

(3) "Tie" means strap, cable, or securing device used to connect the mobile home to ground anchors.

(4) "Diagonal Tie" means a tie intended to primarily resist horizontal forces, but which may also be used to resist vertical forces.

(5) "Vertical Tie" means a tie intended to resist the uplifting or overturning forces.

(6) "Footing" means that portion of the support system that transmits loads directly to the soil.

(7) "Ground Anchor" means any device at the mobile home stand designed to transfer mobile home anchoring loads to the ground.

(8) "Hurricane Resistive Mobile Home" means a mobile home which meets the wind design load requirements for Zone II in 280.305(c)(2).

(9) "Loads" (i) "Dead Loads" means the weight of all permanent construction including walls, floors, roof, partition, and fixed service equipment. (ii) "Live Load" means the weight superimposed by the use and occupancy of the mobile home, including wind load and snow load, but not including dead load. (iii) "Wind Load" means the lateral or vertical pressure or uplift on the mobile home due to wind blowing in any direction.

(10) "Main Frame" means the structural component on which is mounted the body of the mobile home.

(11) "Pier" means that the portion of the support system between the footing and the mobile home exclusive of caps and shims.

(12) "Sheathing" means material which is applied on the exterior side of a building frame under the exterior weather resistant covering.

(13) "Stabilizing Devices" means all components of the anchoring and support systems such as piers, footings, ties, anchoring equipment, ground anchors, and any other equipment which supports the mobile home and secures it to the ground.

(14) "Support System" means a combination of footings, piers, caps, and shims that will, when properly installed, support the mobile home.

280.303. General Requirements.

(a) Minimum requirements. The design and construction of a mobile home shall conform with the provisions of this standard. Requirements for any size, weight, or quality of material modified by the terms of "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer or installer may exceed these standards provided such deviation does not result in any inferior installation or defeat the purpose and intent of this standard.

(b) Construction. All construction methods shall be in conformance with accepted engineering practices to insure durable, livable, and safe housing and shall demonstrate acceptable workmanship reflecting journeyman quality of work of the various trades.

(c) Structural analysis. The strength and rigidity of the component parts and/or the integrated structure shall be determined by engineering analysis or by suitable load tests to simulate the actual loads and conditions of application that occur. (See Subparts E and J)

(d) Hurricane resistive design. Only mobile homes which meet the applicable requirements of 280.305(c)(2) may be designated "Designated for Hurricane Zone." No similar designation which would imply hurricane resistance shall be used when the mobile home does not meet these requirements.

(e) New materials and methods.

(1) Any new material or method of construction not provided for in this standard and any material or method of questioned suitability proposed for use in the manufacture of the structure shall nevertheless conform in performance to the requirements of this standard.

(2) Unless based on the accepted engineering design for the use indicated, all new mobile home materials, equipment, systems or methods of construction not provided for in this standard shall be subjected to the tests specified in paragraph (g) of this section.

(f) Allowable design stress. The design stresses of all materials shall conform to accepted engineering practice. The use of materials not identified as to strength or stress grade shall be limited to the minimum allowable stresses under accepted engineering practice.

(g) Alternate test procedures. In the absence of listed and prescribed standards, the manufacturer shall develop or cause to be developed necessary tests to demonstrate the structural properties and the significant characteristics of the method employed. Such tests shall be witnessed by independent licensed professional engineer or architect or by a recognized testing organization. Copies of the test results shall be kept on file by the mobile home manufacturer.

280.304. Materials.

(a) Dimension and board lumber shall not exceed 19 percent moisture content at time of installation.

(b) (1) Standards for some of the generally used materials and methods of construction are listed in the following table.

(2) Materials and methods of construction utilized in the design and construction of mobile homes which are covered by the standards in the following table, or any applicable portion thereof shall comply with these requirements.

(3) Engineering analysis and testing methods contained in these references shall be utilized to judge conformance with accepted engineering practices required in 280.303(c).

(4) Materials and methods of installation conforming to these standards shall be considered acceptable when installed in conformance with the requirements of this Part.

(5) Materials meeting the standards (or the applicable portion thereof) are considered acceptable unless otherwise specified herein or unless substantial doubt exists as to conformance.

Aluminum: Aluminum Construction Manual, specifications for aluminum structures	AA–1971
Steel:	
Specification for the design, fabrication, and erection of structured steel for buildings with supplements 1, 2 and 3 (junior beams meeting ASTM A36 are acceptable if designed to meet the loadings and performance requirements of this standard)	AISC–1973
Specification for the design of cold–formed steel structural members with supplement 1	AISI–1968
Specification for the design of light–gage cold–formed stainless steel structural members	AISI–1972
Standard specifications for open web steel joints, J– and H– Series	AISC and SJI
Criteria for structural applications of steel cables for buildings	AISI–1973
Wood and wood products:	
Hardboard	PS 58, 59, & 60–1973
Hardwood and decorative plywood	USDC PS 51–71
Structural design guide for hardwood plywood	HPMA–SG–71
Timber, structural glued laminated–inspection	AITC–200–1973
Timber, structural glued laminated	USDS PS 56–73
Construction and industrial plywood	PS 1–74
Plywood residential construction guide	APA–1975
Design specifications for plywood–lumber components	APA–1974
Fabrication specifications of plywood–lumber components	APA–1975
Stress grade lumber and its fastenings—national design specifications for (and supplement)	(N) FPA–1973
Structural design data—wood	(N) FPA–1970
Span tables for joists and rafters (PS 20–70)	(N) FPA–1973
Working stresses for joists and rafters	(N) FPA–1974
Timber construction standards	AITC–100–1972
Design specifications for light metal plate connected wood trusses.	TPI–74
Span tables for light metal plate connected wooden trusses	TPI–1972
Particleboard for mobile home decking	NPA 1–73
Mat–formed wood particleboard	CS 236–66
All plywood beams for mobile homes	APA 124–74
Wood flush doors (interior, exterior)	NWMA I.S. 1–74
Wood window units	ANSI A200.1–74 (NWMA I.S 2–73)
Water repellent preservative treating for millwork	NWMA I.S.4–70
Wood patio doors	NWMA I.S.3–70
Other: Gypsum wallboard	ASTM C36

Fasteners:	
Nails, brads, staples and spikes, wire, cut & wrought	5F.S. FF–N–1 5b
Pneumatic and mechanically driven building construction fasteners	I–SAN TA–19–73Win-
dows and glazing: Transparent safety glazing material used in buildings	ANSI A58.1–197
Unclassified: Building code requirements for minimum design loads in buildings and other structures	ANSI A58.1–197

(c) Wood products shall be identified as complying with the appropriate standards.

280.305. Structural Design Requirements.

(a) Each mobile home shall be designed and constructed as a completely integrated structure capable of sustaining the design load requirements of this standard and shall be capable of transmitting these loads to stabilizing devices without exceeding the allowable loads stresses or deflections. Roof framing shall be securely fastened to wall framing, walls to floor structure, and floor structure to chassis to secure and maintain continuity between the floor and chassis, so as to resist wind overturning and sliding as imposed by design loads in this Part. Uncompressed finished flooring greater than 1/8 inch in thickness, shall not extend beneath load bearing walls which are fastened to the floor structure.

(b) Design Loads.

(1) Design dead loads. Design dead loads shall be the actual dead load supported by the structural assembly under consideration.

(2) Design live loads. The design live loads and wind and snow loads shall be as specified in this Section and shall be considered to be uniformly distributed. The roof live load or snow load shall not be considered as acting simultaneously with the wind load and the roof live or snow load and floor live loads shall not be considered as resisting the overturning movement due to wind.

(3) When engineering calculations are performed, allowable unit stresses may be increased as provided in the documents referenced in 280.304 except as shown otherwise in 280.306(a).

(c) Wind, snow and Roof Loads.

(1) Standard Wind (Zone I). When a mobile home is not designated as "Hurricane–Resistive," the mobile home and each wind resisting part and portion thereof shall be designed for horizontal wind loads not less than 15 psf and a net uplift load of not less than 9 psf.

(2) Hurricane Resistive (Zone II). (i) When a mobile home is designated as "Hurricane Resistive," the home and each wind resisting part and portion thereof shall be designed for horizontal wind loads not less than 25 psf and a net uplift not less than 15 psf. (ii) For exposures in coastal and other areas where wind records indicate significant differences, 125 mph or greater, from the wind loads stated above, the Department may establish more stringent requirements for homes known to be destined for such areas.

(3) Roof Loads.

(i) Flat, curved and pitched roofs shall be designed to resist the following live loads, applied downward on the horizontal projection as appropriate for the design zone marked on the mobile home:

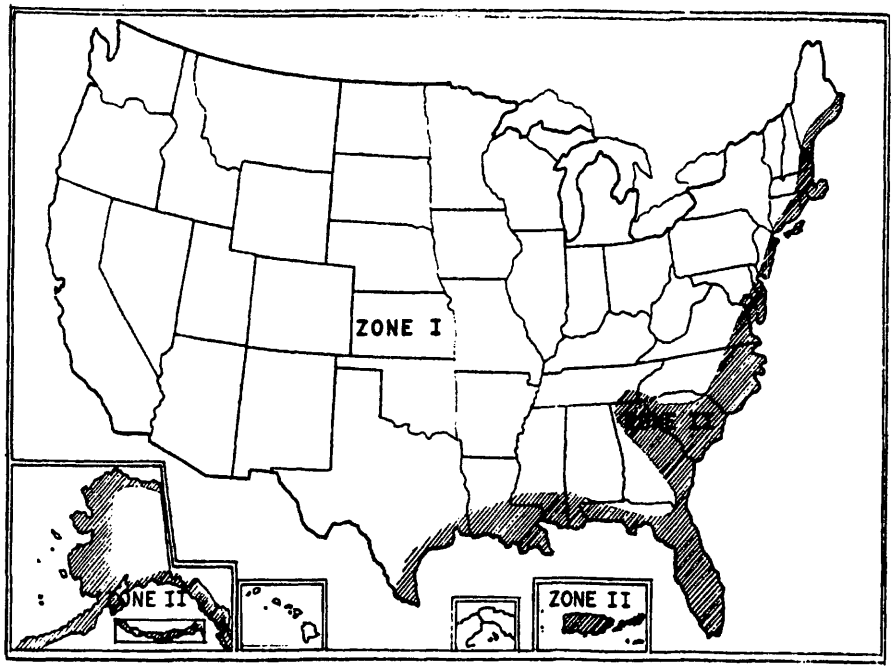
	Pounds per square foot
North Zone	40
Middle Zone	30
South Zone	20

(ii) For exposures in areas (mountainous or other) where snow or wind records or experience indicate significant differences from the loads stated above, the Department may establish more stringent requirements for homes known to be destined for such areas. For snow load, such requirements are to be based on a roof snow load of 0.6 of the ground snow load for areas exposed to wind and roof snow load of 0.8 of the ground snow load for sheltered areas.

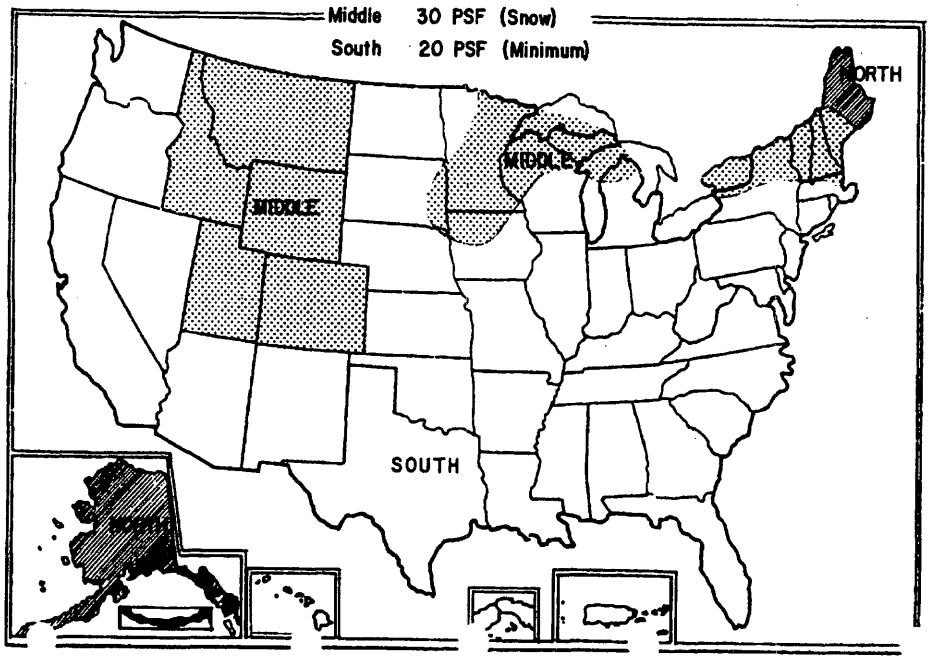
(iii) Eaves and cornices shall be designed for a net uplift pressure of 2.5 times the design uplift wind pressure cited in 280.305(c) (1) and (2).

(4) The Data Plate posted in the mobile home (See 280.5) shall show for each structural zone(s) of the USA the mobile home has been designed and the actual design external snow and/or wind live loads. The Data plate shall include reproduction of the Load Zone Maps shown in this Section and related information. The Load Zone Maps shall be not less than one–half the size illustrated.

WIND ZONE MAP
STANDARD WIND ZONE I 15 PSF Horizontal 9 PSF Uplift
HURRICANE ZONE II 25 PSF Horizontal 15 PSF Units



ROOF LOAD ZONE MAP
North 40 PSF (Snow)
Middle 30 PSF (Snow)
South 20 PSF (Minimum)



(d) Design Load Deflection. When a structural assembly is subjected to total design live loads, the deflection for structural framing members shall not exceed the following:

Floor	L/240
Roof and ceiling	L/180
Headers, beams, and girders (vertical load)	L/180
Walls and partitions	L/180

Where L equals the clear span between supports or two times the length of a cantilever.

(e) Fastening of Structural Systems. Roof framing shall be securely fastened to wall framing, walls to floor structure, and floor structure to chassis to secure and maintain continuity between the floor and chassis, so as to resist wind overturning and sliding as imposed by design loads in this Part.

(f) Walls. The walls shall be of sufficient strength to withstand the load requirements as defined in 280.305(c) of this part, without exceeding the deflections as specified in 280.305(d). The connections between the bearing walls, floor, and roof framework members shall be fabricated in

such a manner as to provide support for the material used to enclose the mobile home and to provide for transfer of all lateral and vertical loads to the floor and chassis.

(1) Except where substantiated by engineering analysis or tests, studs shall not be notched or drilled in the middle one–third of their length.

(2) Interior walls and partitions shall be constructed with structural capacity adequate for the intended purpose and shall be capable of resisting a horizontal load of not less than five pounds per square foot. Finish of walls and partitions shall be securely fastened to wall framing.

(g) Floors.

(1) Floor assemblies shall be designed in accordance with accepted engineering practice standards to support a minimum uniform live load of 40 lb/ft^2 plus the dead load of the materials. In addition (but not simultaneously), floors shall be able to support a 200–pound concentrated load on a one–inch diameter disc at the most critical location with a maximum deflection not to exceed one–eighth inch relative to floor framing. Perimeter wood joists of more than six inches depth shall be stabilized against overturning from superimposed loads as follows: at ends by solid blocking not less than two–inch thickness by full depth of joist, or by connecting to a continuous header not less than two–inch thickness and not less than the depth of the joist with connecting devices; at eight–feet maximum intermediate spacing by solid blocking or by wood cross–bridging of not less than one inch by three inches, metal cross–bridging of equal strength, or by other approved methods.

(2) Wood, wood fibre or plywood floors or subfloors in kitchens, bathrooms (including toilet compartments), laundry rooms, water heater compartments, and any other areas subject to excessive moisture shall be moisture resistant or shall be made moisture resistant by sealing or by an overlay of nonabsorbent material applied with water–resistant adhesive. Carpets and/or carpet pads shall not be installed in concealed spaces subject to excessive moisture such as plumbing fixture spaces.

(3) Except where substantiated by engineering analysis or tests:

(i) Notches on the ends of joists shall not exceed one–fourth the joist depth.

(ii) Holes bored in joists shall not be within 2 inches of the top or bottom of the joist, and the diameter of any such hole shall not exceed one–third the depth of the joist.

(iii) Notches in the top or bottom of the joists shall not exceed one–sixth the depth and shall not be located in the middle third of the span.

(4) Bottom board material (with or without patches) shall meet or exceed the level of 48 inch–pounds of puncture resistance as tested by the Beach Puncture Test in accordance with ASTM D–781–68. The material shall be suitable for patches and the patch life shall be equivalent to the material life. Patch installation instruction shall be included in the mobile home manufacturer's instructions.

(b) Roofs.

(1) Roofs shall be of sufficient strength to withstand the load requirements as defined in 280.305(b) and (c) without exceeding the deflections specified in 280.305(d). The connections between roof framework members and bearing walls shall be fabricated in such a manner to provide for the transfer of design vertical and horizontal loads to the bearing walls and to resist uplift forces.

(2) Roofing membranes shall be of sufficient rigidity to prevent deflection which would permit ponding of water or separation of seams due to wind, snow, ice, erection or transportation forces.

(3) Cutting of roof framework members for passage of electrical, plumbing or mechanical systems shall not be allowed except where substantiated by engineering analysis.

(4) All roof penetrations for electrical, plumbing or mechanical systems shall be properly flashed and sealed. In addition, where a metal roof membrane is penetrated, a wood backer shall be installed. The backer plate shall be not less than 5/16 inch plywood, with exterior glues, secured to the roof framing system beneath the metal roof, and shall be of a size to assure that all screws securing the flashing are held by the backer plate.

280.306. Windstorm Protection.

(a) Provisions for support and anchoring systems. Each mobile home shall have provisions for support and anchoring systems, which, when properly designed and installed, will resist overturning and lateral movement (sliding) of the mobile home as imposed by the respective design loads. The design wind loads to be utilized for calculating resistance to overturning and lateral movement shall be the wind loads indicated in 280.305(c) (1) and (2) increased by a factor of safety of 1.5. The basic allowable stresses of materials required to resist overturning and lateral movement shall not be increased in the design and proportioning of these members.

(1) The provisions of this section shall be followed and the support and anchoring systems shall be designed by a Registered Professional Engineer or Architect.

(2) The manufacturer of each mobile home is required to make provision for the support and anchoring systems but is not required to provide the anchoring equipment or stabilizing devices. When the manufacturer's installation instructions provide for the main frame structure to be used as the points for connection of diagonal ties, no specific connecting devices need be provided on the main frame structure.

(b) The manufacturer shall provide printed instructions with each mobile home specifying the location and required capacity of stabilizing devices on which the design is based. The manufacturer shall provide drawings and specifications certified by a registered professional engineer indicating at least one acceptable system of anchorage including the details of required straps or cables, their end connections and all other devices needed to transfer the wind loads from the mobile home to the ground anchors.

(c) The provisions made for anchoring systems shall be based on the following design criteria for mobile homes.

(1) The minimum number of ties required per side shall be as required to resist the design loads stated in 280.305(c)(1) and (2).

(2) Ties shall be as evenly spaced as practicable along the length of the mobile home with not more than 8 feet open–end spacing on each end.

(3) When continuous straps are provided as vertical ties, such ties shall be positioned at rafters and studs. Where a vertical tie and diagonal tie are located at the same place, both ties may be connected to a single ground anchor, provided that the anchor used is capable of carrying both loadings.

(4) Add–on sections of the expandable mobile homes shall have provisions for vertical ties at the exposed ends.

(d) Double–wide mobile homes require only diagonal ties. These shall be placed along the main frame and below the outer side walls.

(e) Protection shall be provided at sharp corners where the anchoring system requires the use of external cables or straps. Protection shall also be provided to minimize damage to roofing or sliding by the cable or strap.

(f) Anchoring equipment shall be capable of resisting an allowable working load equal to or exceeding 3,150 pounds and shall be capable of withstanding a 50 percent overload (4,725 pounds total) without failure of either the anchoring equipment or the attachment point on the mobile home.

(g) Anchoring equipment exposed to weathering shall have a resistance to weather deterioration at least equivalent to that provided by a coating of zinc on steel of not less than 0.30 ounces per square foot of surface coated.

(1) Slit or cut edges of zinc–coated steel strapping do not need to be zinc coated.

(2) Type 1, Finish B, Grade 1 steel strapping, 1 1/4 inches wide and 0.035 inch thick, conforming with Federal Specification QQ–S–781–H, is judged to conform with the provisions of this section and paragraph (f) above.

280.307. Resistance to Elements and Use.

(a) Exterior coverings shall be of moisture and weather resistive materials attached with corrosion resistant fasteners to resist wind, snow and rain. Metal coverings and exposed metal structural members shall be of corrosion resistant materials or shall be protected to resist corrosion. All joints between portions of the exterior covering shall be designed, and assembled to protect against the infiltration of air and water, except for any designed ventilation of wall or roof cavity.

(b) Joints between dissimilar materials and joints between exterior coverings and frames of openings shall be protected with a compatible sealant suitable to resist infiltration of air or water.

(c) Where adjoining materials or assemblies of materials are of such nature that separation can occur due to expansion, contraction, wind loads or other loads induced by erection or transportation, sealants shall be of a type that maintains protection against infiltration or penetration by air, moisture or vermin.

(d) Exterior surfaces shall be sealed to resist the entrance of rodents.

Subpart E. Testing

280.401. Structural Load Tests.

Every structural assembly tested shall be capable of meeting the Proof Load Test or the ultimate Load Test as follows:

(a) Proof load tests. Every structural assembly tested shall be capable of sustaining its dead load plus superimposed live loads equal to 1.75 times the required live loads for a period of 12 hours without failure. Tests shall be conducted with loads applied and deflections recorded in 1/4 design live load increments at 10–minute intervals until 1.25 times design live load plus dead load has been reached. Additional load shall then be applied continuously until 1.75 times design live load plus dead load has been reached. Assembly failure shall be considered as design live load deflection (or residual deflection measured 12 hours after live load removal) which is greater than the limits set in 280.305(d), rupture, fracture, or excessive yielding. An assembly to be tested shall be of the minimum quality of materials and workmanship of the production. Each test assembly, component or subassembly shall be identified as to type and quality or grade of material. All assemblies, components or subassemblies qualifying under this section shall be subject to continuing qualification testing program acceptable to the Department.

(b) Ultimate load tests. Ultimate load tests shall be performed on a minimum of three assemblies to generally evaluate the structural design. Every structural assembly tested shall be capable of sustaining its total dead load plus live loads increased by a factor of safety consistent with the material being tested. Factors of safety shall be based on nationally recognized standards and approved by the Department. Tests shall be conducted with loads applied and deflections recorded in 1/4 design live load increments at 10–minute intervals until 1.25 times design live load plus dead load has been reached. Additional loading shall then be applied continuously until failure occurs or 1.50 times the factor of safety times the design live load plus the dead load is reached. Assembly failure shall be considered as design live load deflection greater than the limits set in 280.305(d) rupture, fracture, or excessive yielding. Assemblies to be tested shall be representative of average quality or materials and workmanship of the production. Each test assembly, component, or subassembly shall be identified as to type and quality or grade of material. All assemblies, components, or subassemblies qualifying under this section shall be subject to a periodic qualification testing program acceptable to the Department.

280.402. Test Procedure for Roof Trusses.

(a) Roof load tests. The following is an acceptable test procedure, consistent with the provisions of 280.401, for roof trusses that are supported at the ends and support design loads. Where roof trusses act as support for other members, act as cantilevers, or support concentrated loads, they shall be tested accordingly.

(b) General. Trusses may be tested in pairs or singly in a suitable test facility. When tested singly, simulated lateral support of the test assembly may be provided, but in no case shall this lateral support exceed that which is specified for the completed mobile home. When tested in pairs, the trusses shall be spaced at the design spacing and shall be mounted on solid support accurately positioned to give the required clear span distance (L) as specified in the design. The top and bottom chords shall be braced and covered with the material, with connections or method of attachment, as specified by the completed mobile home.

(1) As an alternate test procedure, the top chord may be sheathed with 1/4 inch by 12 inch plywood strips. The plywood strips shall be at least long enough to cover the top chords of the trusses at the designated design truss spacing. Adjacent plywood strips must be separated by at least 1/8 inch. The plywood strip shall be nailed with 4d nails or equivalent staples not closer than 8 inches on center along the top chord of one truss only. The bottom chords of the adjacent trusses may be either: (i) Unbraced, (ii) laterally braced together (not cross braced) with 1″ x 2″ stripping not closer than 24 inches on center nailed with only one 6d nail at each truss, or (iii) covered with the material, with connections or methods of attachment, as specified for the completed mobile home.

(2) Truss deflections will be measured relative to a taut wire running over the support and weighted at the end to insure constant tension or other approved methods. Deflections will be measured at the two quarter points at midspan. Loading shall be applied to the top chord through a suitable hydraulic, pneumatic, or mechanical system, masonry units, or weights to simulate design loads. Load units for uniformly distributed loads shall be separated so that arch action does not occur, and shall be spaced not greater than 12 inches on center so as to simulate uniform loading.

(c) Nondestructive test procedure.

(1) Dead load plus live load. (i) Noting figure A, measure and record initial elevation of the truss in test position at no load. (ii) Apply load units to the top chord of the truss equal to the full dead load of roof and ceiling. Measure and record deflections. (iii) Maintaining the dead load, add live load in approximately 1/4 design live load increments. Measure the deflections after each loading increment. Apply incremental loads at a uniform rate such that approximately one–half hour is required to establish the total design load condition. Measure and record and deflections five minutes after loads have been applied. The maximum deflection due to design live load (deflection measured in step (iii) minus step (ii) shall not exceed L/180, where L is a clear span measured in the same units. (iv) Continue to load truss to dead load plus 1.75 times the design live load. Maintain this loading for 12 hours and inspect truss for failure. (v) Remove the total superimposed live load. Trusses not recovering to at least the L/180 position within 12 hours shall be considered as failing.

(2) Uplift Loads. This test shall only be required for truss designs which may be critical under uplift load conditions. (i) Measure and record initial elevation of the truss in an inverted test position at no load. Bottom chord of the truss shall be mounted in the horizontal position. (ii) Apply the uplift load as stated in 280.305(c) to the bottom chord of the truss. Measure and record the deflections 5 minutes after the load has been applied. (iii) Continue to load the truss to 1.75 times the design uplift load. Maintain this load for 3 hours and inspect the truss for failure. (iv) Remove applied loads and within three hours the truss must recover to at least L/180 position, where L is a clear span measured in the same units.

(d) Destructive test procedure.

(1) Destructive tests shall be performed on three trusses to generally evaluate the truss design.

(2) Noting figure A–1, apply the load units to the top chord of the truss assembly equal to full dead load of roof and ceiling. Measure and record deflections. Then apply load and record deflections 1/4 design live load increments at 10–minute intervals until 1.25 times design live load plus dead load has been reached.

(3) Additional loading shall then be applied continuously until failure occurs or the factor of safety times the design live load plus the dead load is reached.

(4) Assembly failure shall be considered as design live load deflection greater than the limits set in 280.305(d), rupture, fracture, or excessive yielding.

(5) The assembly shall be capable of sustaining the dead load plus the applicable factor of safety times the design live load (the applicable factor of safety for wood trusses shall be taken as 2.50).

(e) Trusses qualifying under the nondestructive test procedure. Tests 280.402(c)(1) and (2) (when required), shall be subject to a continuing qualification testing program acceptable to the Department. Trusses qualifying under the destructive test procedures. Tests 280.402(c)(2) (when required), and (d), shall be subject to periodic tests only.

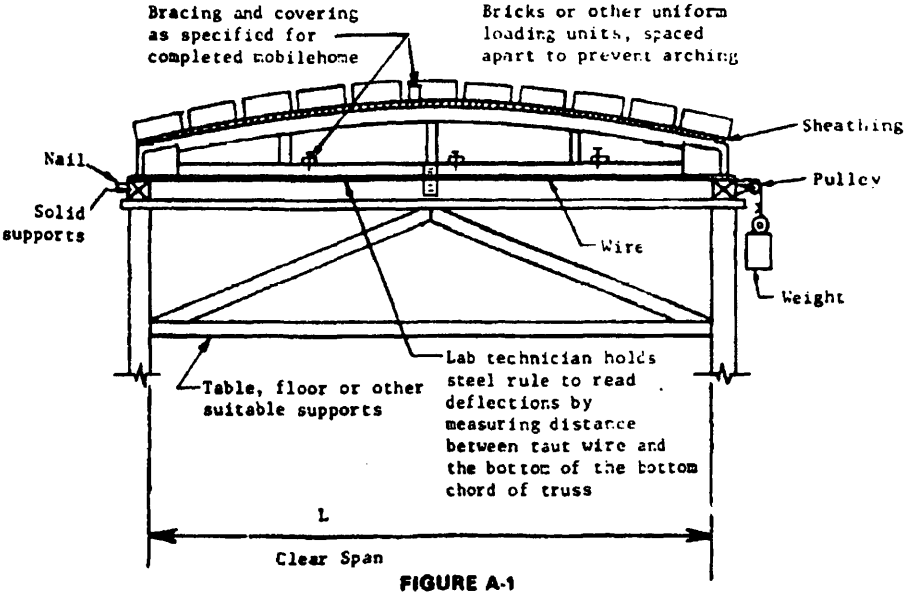


FIGURE A-1
Test Procedure for Roof Trusses

280.403. Standard for Windows and Sliding Glass Doors Used in Mobile Homes.

(a) Scope. This section sets the requirements for prime windows and sliding glass doors used in mobile homes except for windows used in entry doors. Windows so mounted are components of the door and thus are excluded from this standard.

(b) Materials and methods. Any material or method of construction, whether or not provided for in this standard, and any material or method of questioned suitability, proposed for use in manufacture, shall nevertheless conform in performance as outlined in paragraph (c) of this Section and proof of capability of structural integrity shall be presented. If applicable, units shall comply with the following:

(1) Wood and wood based products.

(i) Wood. Wood parts including plywood and particleboard parts of window units shall have a moisture content of 6 to 12 percent at the time of fabrication. Wood parts, except inside stops and trim shall be manufactured utilizing wet-use adhesive requirements as defined in ASTM D-3110 and preservative treated in accordance with NWMA IS-4.

(ii) Plywood. Plywood parts except for inside stops and trim shall be exterior type plywood and preservative treated in accordance with NWMA IS-4.

(iii) Particleboard. Particleboard parts except for inside stops and trims shall be type-2 particleboard and preservative treated in accordance with NWMA IS-4.

(2) Aluminum.

(i) Alloys. Aluminum shall be of a commercial quality and of proper alloy for window construction, free from defects impairing strength and/or durability, as follows:

Wrought aluminum alloys shall be those in which the alloying elements do not exceed the following maximum limits:

	Percent
Silicone	7.0
Magnesium	
Manganese	6.0
Chromium	
Iron	1.0
Copper	.4
Zinc	1.0
Other	.5
Aluminum	Balance

These limits apply to both bare products and to the core clad products. The cladding of clad products shall be within the same limits except the maximum zinc limit may be 3.0 percent in order to assure that the cladding is anodic to the core. Where aluminum extrusions are used for the main frame and sash or ventilator sections, they shall have a minimum ultimate tensile strength of 22,000 psi and a yield of 16,000 psi.

(ii) Finish. The exposed surface of all aluminum members shall be clean and free from serious surface blemishes. If exposed welded joints are used, they shall be dressed and finished.

(3) Glass. (i) Safety glazing materials, where used, shall meet ANSI Z97.1-1972. Tempered glass, where used, shall also meet FS DD-G-1403A. (ii) Insulated glass, when used, shall meet or exceed the

requirements of Sealed Insulating Glass Manufacturers Association (SIGMA) and shall be permanently identified with the name of the insulating glass manufacturer. (iii) Glass tolerances and areas shall meet or exceed the values shown in the Glass Table below.

Glass Dimensional Tolerances[a] and Maximum Allowable Areas—Sheet Glass

Normal thickness (inches)	*Minimum thickness (inches)*	*Maximum area[b] (square ft) at 15 lb/ft²*	*Maximum area[b] (square ft) at 25 lb/ft²*
18 oz	0.078	11	10
SS	.085	13	11
24 oz	.108	18	14
DS	.115	20	15
3/16	.182	40	30
7/32	.206	58	37
14	.236	72	43

[a]For other types of glass see Federal Specification DD–G–451c, dated Jan. 15, 1968.

[b]Maximum areas shown are based on minimum glass thickness set forth. Maximum areas shown apply for rectangular lites of annealed glass firmly supported on all 4 sides in a vertical position.

Tabulated areas may be increased as noted for use of tempered, heat strengthened or sealed insulating glass and shall be decreased as noted for use of sandblasted, wire or laminated glass. Glass louvers installed in jalousies shall be not less than 7/32″ thick nor longer than 36″ and exposed edges shall be seamed, ground or polished.

Adjustment Factors
Relative Resistance to Wind Loads[1]

Glass type:	*Approximate Relationship*
Regular Plate	1.0
Laminated	0.6
Wire	0.5
Heat strengthened	2.0
Fully tempered	4.0
Factory fabricated insulating glass[2]	1.5
Rough rolled or patterned surface	1.0
Sand blasted annealed glass	0.4

[1]To determine the maximum allowable area for the glass types listed multiply the allowable area established by the appropriate adjustment factor

[2]Use thickness of thinner of the two lights, not thickness of unit

(4) Glazing. Any method of glazing conforming to the Performance Requirements (paragraph c of this section) and Material and Methods Requirements (paragraph b of this section) shall be acceptable.

(5) Hardware and Fasteners. All hardware components and fasteners when considered as individual components, whether commercially available, or proprietary, must be capable of performing of the criteria stipulated in Performance Requirements, paragraph (c) of this section.

(c) Performance Requirements. Test procedures as outlined in paragraphs (c)(1) thru (4) of this section are applicable to preproduction prototype units of prime windows and sliding glass doors. Production line units shall be equivalent in design and materials to the tested and passed prototype units and shall also meet the requirements of 280.403(c)(5).

(1) Size of test specimen. Production line units shall have width and height dimensions equal to or less than the corresponding dimensions of the prototype unit tested and passed. No inference of compliance to these requirements is to be made for products exceeding the size of the tested and passed prototype.

(2) Structural performance test. (i) Zone I. There shall be no glass breakage, permanent deflection or any other condition which would cause the specimen to be inoperable after being subjected to an exterior pressure, 15 pounds per square foot. The test method applicable to this requirement shall be ASTM E–330. (ii) Zone II. There shall be no glass breakage, permanent deflection or any other condition which would cause the specimen to be inoperable after being subjected to exterior pressure of 25 pounds per square foot. The test method applicable to this requirement shall be ASTM E–330. (iii) Interior pressure. There shall be no glass breakage, permanent deflection or any other condition which would cause the specimen to be inoperable after being subjected to an interior pressure equal to 1/2 the requirements in either paragraphs (c)(2)(i) or (c)(2)(ii). The test method applicable to this requirement shall be ASTM E–330 except that no artificial means of containing pressure shall be allowed. Should pressure not be obtainable due to lack of air the testing agency will report the pressure achieved, the theoretical air flow supplied to the unit, and certify that no additional flow from the equipment in use was available. Laboratory equipment used for this test must be capable of developing 10 x air flow determined in 280.403(c)(3).

(3) Air infiltration test. Air infiltration shall not exceed 0.50 CFM per square foot of window area when tested in accordance with ASTM E–283 at an exterior pressure differential of 1.567 pounds per square foot (0.30″ of water pressure).

(4) Water resistance test. No leakage shall pass the interior face of the test specimen at a test pressure of 2.86 psf (0.55″ water pressure) when tested in accordance with ASTM E–547 with a test period consisting of four cycles, each cycle consisting of five minutes with pressure released, during which the water spray will be continuously applied. (i) For the purpose of compliance with paragraph (c)(4), all units which may have exterior screens, shall be tested first with screens in place and thereafter with screens removed. (ii) For the purpose of compliance with paragraph (c)(4), penetration, as referenced in ASTM E–331–70, paragraph 4.3, shall not include drops passing the interior face by energy developed in the bursting of sill drain system bubbles created by a pressure differential applied to the exterior face of the specimen.

(5) Production Line Units. Production line units of prime windows and sliding glass doors shall comply with: (i) The structural performance test to the zone limit certified in paragraph (c)(2) of this section and; (ii) the air infiltration test in paragraph (c)(3) of this section and; (iii) the water resistance test in paragraph (c)(4) of this screen except that the test pressure shall be 1.56 psf (0.30″ water column) and the water application rate shall be 2.5 GPH, per square foot of window surface area, all other parameters being the same as set forth in paragraph (c)(4) of this section.

(d) Test sequence. The sequence of tests shall be performed as they are listed above except that Structural Performance Test to Zone I (15 PSF) exterior pressure may be followed by Zone I interior pressure (7.5 PSF), which may be followed by the Air Infiltration Test, which may be followed by the Water Resistance Test, which may be followed by the Structural Performance Test to Zone II (25 PSF) exterior pressure, which may be followed by the Zone II interior pressures (12.5 PSF), which may be followed by the Air Infiltration Test, which may be followed by the Water Resistance Test. The Air Infiltration Test may be performed after the Water Resistance Test providing all sealed areas are thoroughly dried.

(e) Screens.

(1) Screen, when specified, shall be provided with fastening devices, suited particularly for application to the specific window for which they are intended, and be of sufficient strength to perform satisfactorily.

(2) Insect screening shall be of a material compatible with aluminum and shall meet CS 138–55, "Insect Wire Screening," FS RR–W–365. "Screening, Wire, Insect," CS 248–64, "Vinyl Coated Glass Fibre Insect Screening and Louver Cloth," or FS L–S–125a "Screening, Non Metallic Insect."

(f) Assembly. Windows shall be assembled in a secure and workmanlike manner to perform as hereinafter specified and to assure neat and weather tight construction. A permanent–type water–tight joint shall be made at the junction of the sill and side frame members.

(g) Shipping. Units may be shipped either as a subassembly unit or a completely assembled unit but not as a KD or open unit. A KD unit is a unit that is complete in its entirety with the exception of glass, glazing material, or screen, which is shipped in disassembled condition and later assembled and glazed according to the instructions of the manufacturer and utilizing all of the components supplied or specified by the manufacturer.

(1) An open unit is a unit that is complete in its entirety with the exception of glass, glazing materials, or screen, which is shipped in an as-

sembled condition and later glazed according to the instruction of the manufacturer, utilizing all of the components supplied by the manufacturer.

(2) A subassembly unit is a unit that is complete in its entirety including the glazing of glass or other glazing panels into their respective fixed or moving sash frames, which is shipped with such glazed panels separate from each other or from any master frame, which master frame may be either disassembled or assembled. The connection of such master frame to glazed, fixed, or moving panels is to take place later according to the instructions of the manufacturer utilizing all of the components supplied by the manufacturer.

(3) A completely assembled unit is one that is complete in its entirety and is shipped with all parts and subassemblies in complete connection with each other and no separate pieces.

(h) Permanent identification.

(1) As identification, each unit shall bear a certification label containing a code number traceable to the manufacturer through the certifying agency or the name of the manufacturer or brand name together with the city and state location of the manufacturer or main office of the manufacturer.

(2) The label shall be of a permanent–type designed to discourage easy removal, shall be legible and shall remain legible under normal operating conditions for a period of not less than five years from date of product installation.

(3) Acceptable means of identification are, but are not limited to, the following: Embossed, stamped, cast or molded characters becoming an integral part of the material on which they are located; flexible color–fast and durable labels, decals, stickers, etc., affixed with a permanent–type adhesive; or rigid metal or plastic name plates affixed mechanically or with a permanent–type adhesive.

(4) Location of the label shall be such that it is accessible for normal direct viewing purposes from the interior side of the product, after the unit is installed, without the necessity of product disassembly. Identification located only on the glass or screen shall not be acceptable.

(i) Certification. The manufacturer shall show evidence of continued compliance by affixing a quality certification label to the product in accordance with ANSI Z34.1, "American National Standard Practice for Certification Procedures." In determining certifiability under this section, compliance shall consist of preproduction specimen testing in accordance with each and every requirement of this section followed by an inplant inspection and production unit testing system consisting of a minimum of two such inspections per year by an independent quality assurance agency.

280.404. Standard for Egress Windows for Use in Mobile Homes.

(a) Scope and purpose. The purpose of this section is to establish the requirements for the design, construction, and installation of windows and approved devices intended to be used as an emergency exit during conditions encountered in a fire or similar disaster.

(b) Requirements.

(1) Installation. Window manufacturers shall provide the home manufacturer with written installation instructions.

(2) Performance. The egress window including auxiliary frame and seals, if any, shall meet the requirements of 280.403 "Standard for Windows and Sliding Glass Doors Used in Mobile Homes."

(3) Dimensions. (i) All egress windows shall have a minimum clear dimension of 22 inches when determined in accordance with Test A paragraph (d)(1) of this section. (ii) All egress windows shall have a minimum clear opening of 5 square feet when determined in accordance with Test B, paragraph (d)(2) of this section.

(4) Operational. (i) Operating instructions shall be applied to each egress window and carry the legend "Do Not Remove." In addition, the instructions should include a reminder to remove all shipping clips on screens, storm windows, and other appurtenances for exiting purposes. (ii) The number of locks and latches shall not exceed 2, not including the 4 appurtenance attachment mechanisms permitted by paragraph (c)(2)(i) of this section. (iii) Locks, latches, lifting and sliding operational forces shall not exceed a force of 20 pounds when tested in accordance with Test C, paragraph (d)(3) of this section. (iv) Any handle or latch required to operate the emergency egress provisions of the window shall be attached in the factory by either a permanent method or a mechanical method which requires a tool not commonly available in the home, unless removal of the latch or handle will in no way limit the effectiveness of the egress provision. (v) Any window whose egress provisions are dependent on the operation of a rotary operation is unacceptable.

EXAMPLE: Awning windows utilizing a single vent for egress and requiring a rotary operator for activation is unacceptable, whereas an awning window set in a separate frame whose activation requires only a 180^0 twist of the lock to allow egress is acceptable even though a rotary operator is present for normal operation.

(c) Appurtenances.

(1) The addition or inclusion of screens, storm windows, or other appurtenances shall not encroach upon the dimensional requirements set forth in paragraph (b)(3).

(2) Any mechanism used to attach an appurtenance such as a screen or storm window to the window shall meet the following requirements unless the appurtenance meets the requirements of paragraph (c)(3): (i) The number of mechanisms shall not exceed 4 and; (ii) The operating force of the mechanisms shall not exceed 5 pounds tested in accordance with Test D paragraph (d)(4) and; (iii) The mechanisms shall be designed so that that cannot be misapplied utilizing normal household tools such as screwdrivers, pliers, and wrenches exceeding the aforementioned forces; and (iv) The surface to which the operating force is applied shall have a minimum cross–sectional area of 0.25 square inches.

(3) If an appurtenance such as a screen or storm window is attached to the window in such a manner that it need not be removed or disengaged in any way in order to effect a fully opened exit, the requirements of paragraph (c)(2) need not be met.

(4) The operating instructions detailed in paragraph (b)(4)(i) shall include instructions on the required removal and replacement of any screen and/or storm sash appurtenance.

(d) Test methods.

(1) Test Method A–Minimum Dimensions. The minimum dimension of 22 in. required by paragraph (b)(3)(i) shall be tested as follows: When the window is in the final position for egress, a 22 in. dowel shall be passed through the opening at the point of its least dimension while contacting only one point of the window frame, at either the horizontal or vertical orientation of the dowel.

EXAMPLE: In a horizontally opening window (sliding or rolling), the minimum dimension requirement may be met as follows: When the window is in the final position for egress, place one end of the dowel perpendicularly against the portion of the main frame side (bottom) projecting furthest towards the center of the opening, and pass the dowel through the opening in a horizontal (vertical) plane without touching any portion of the device except the main frame side (bottom) on which it pivoted.

(ii) EXAMPLE: Any type of window may be mounted in a side, bottom, or top hinged or pop–out egress frame which in the fully opened position meets the minimum dimension and area requirements.

(2) Test Method B—Minimum Area. The minimum area requirement of 5 square feet contained in paragraph (b)(3)(ii) shall be determined by multiplying the minimum dimension (which may exceed 22 in.) by the clear dimension measured perpendicularly to the minimum dimension and in the plane of the window main frame.

(i) EXAMPLE: In a vertically operating window whose minimum dimension is from the main frame bottom to that portion of the operating vent projecting furthest toward the horizontal center line of the egress opening when in the fully opened position, the minimum area shall be determined by multiplying the minimum dimension by the inside side–to–side dimension.

(3) Test Method C—Operating Forces. (i) For horizontal or vertical moving windows, a force gage shall be attached to the manual pull bar at its centerpoint. After opening the latch or lock, a force not to exceed 20 pounds shall be exerted in a direct pull parallel to the window in order to obtain movement in the opening direction. The window shall be in the closed and latched position prior to the test and shall have been subjected to 5 opening and closing cycles prior to the test. (ii) Locks and latches shall be tested as noted in section (d)(3)(i) except that the force gage shall be located in the center of the latch or lock handle.

(4) Test Method D—Mechanical Device Operating Force (Appurtances). (i) A force gage of sufficient capacity using a point contact and having the ability to retain the maximum reading (Chatillion DPP–50 or similar) shall be used. The force gage point shall be applied to the mechanism at the center of the normal force application area and sufficient force applied to disengage the appurtenance. The maximum reading shall be retained by the force gage and may be read directly.

(e) Test Report.

(1) The test report shall include all requirements of this standard listed in their order shown in this standard. Where certain provisions of the standard do not apply, the notation "N.A." (Not applicable) shall so denote these items. Where certain appurtenances are not supplied; such as storm windows or screen, the notation "N.S." (Not supplied) shall so denote those items.

(2) The test report shall be complete with manufacturers assembly drawing, extrusion drawings, parts list, weatherstrip description, glazing method, description including backbedding and glazing method, installation and operation instructions. Where the unit tested is not in its actual installation, a clause stating the following shall be included in the test report: "This unit tested as submitted. Actual installation must be in accordance with the instructions included with this report or this report is not valid."

(3) The test report on all units submitted for test not having appurtenances listed in paragraph (c) shall include a statement as follows: "This unit tested without storm windows (or screen). The installation of these items with this product invalidates this test report."

(4) For any test on component parts, such as balances, friction positioners, etc., certification by an independent testing agency shall be acceptable for evidence of compliance. If such certification is used, the test report shall so state, and give the name of the agency.

(5) Test reports used to demonstrate compliance with this standard to any governmental body shall be made available to the public upon request.

280.405. Standard for Swinging Exterior Passage Doors for Use in Mobile Homes.

(a) Introduction. This standard applies to all exterior passage door units, excluding sliding doors and doors used for access to utilities and compartments. This standard applies only to the door frame consisting of jambs, head and sill and the attached door or doors.

(b) Purpose. It is the purpose of this standard to establish the requirements for exterior passage door units irrespective of the type of material used in the manufacture of these products.

(c) General requirements and materials of construction.

(1) The design and construction of the exterior passage door units shall conform with the provisions of this standard. Requirements for any size, weight, or quality of material modified by the terms of "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer may exceed these standards provided such deviation does not result in an inferior product or defeat the purpose and intent of this standard. Units may be shipped as a completely assembled unit, but not as KD or open unit. A KD unit is a unit that is complete in its entirety, which is shipped in a disassembled condition and later assembled and that is complete in its entirety with the exception of a window insert, which is shipped in an assembled condition and later glazed according to the instructions of the manufacturer. A completely assembled unit is one that is complete in its entirety and is shipped with all parts and subassemblies in complete connection with each other and no separate pieces, except for: Lock–knobs only and keys, door chain and attachments, storm door latch, chain and attachments, threshold extension, screw cover, drip can.

(2) Workmanship. All construction methods, materials and workmanship shall be in conformance with accepted engineering practices to insure durable, livable, and safe housing.

(d) Materials and methods. Any material or method of construction, whether or not provided for in this standard, an any material or method of questioned suitability, proposed for use in manufacture, shall nevertheless conform in performance as outlined in paragraph (e) of this standard and proof of capability of structural integrity shall be presented. If applicable, units shall comply with the following:

(1) Wood and wood based products. (i) Wood. Wood door frame parts shall be manufactured of suitable lumber having a moisture content of 6 to 12 percent at time of fabrication. Wood parts except interior trim shall be manufactured utilizing wet–use adhesive requirements as defined in ASTM D–3110 and Preservative Treated in accordance with NWMA I.S.–4 standard. Doors shall conform to the Type 1 requirements of NWMA I.S. 1–74. (ii) Plywood. Plywood shall be exterior type and preservative treated in accordance with NWMA I.S.–4. (iii) Hardboard parts shall meet or exceed the requirements for 1/8 inch tempered hardboard in accordance with the latest edition of PS 58.

(2) Hardware and fasteners. All hardware components and fasteners when considered as individual components, whether commercially available, or proprietary, must be capable of performing to the criteria stipulated in this section and in the Performance Requirements Section, Paragraph (e) of these specifications.

(3) Glass. All glazing in doors shall be safety glazing material meeting ANIS Z97.1–72. Glass in jalousies shall also be at least 7/32 in. in thickness and not longer than 36 inches. Exposed edges shall be seamed, ground or polished to prevent injury.

(4) Weatherstripping. A tight threshold and weatherstripping to reduce air infiltration and improve water resistance shall be provided capable of conforming to the criteria stipulated in the Performance Requirements Section, Paragraph (e) of this standard.

(e) Performance requirements.

(1) Size of test specimen. All tests shall be performed on exterior passage door units with all operable portions closed and all criteria herein are applicable to exterior passage doors of the largest type that the producer desires to qualify under this specification. No inference of compliance to these requirements is to be made for products exceeding the size of the test specimen submitted. Largest unit size is determined by the maximum width and height dimensions of production units that are equal to or less than corresponding dimensions in that unit tested and passed.

(2) Structural performance test.

(i) Wind pressure resistivity. There shall be no glass breakage or permanent deflection or any other condition which would cause the specimen to the inoperable after being subjected to exterior pressures of 25 pounds per square foot. The test method applicable to this requirement shall be ASTM E–330.

(ii) Interior pressure. There shall be no glass breakage or permanent deflection or any other condition which would cause the specimen to be inoperable after being subjected to an interior pressure equal to 1/2 the requirements in paragraph (e)(2)(i). The test method applicable to this requirement shall be ASTM E–330 except that no artificial means of containing pressure shall be allowed. Should pressure not be obtainable due to lack of air, the testing agency will report the pressure achieved, the theoretical air flow supplied to the unit, and certify that no additional flow from the equipment in use was available. Laboratory equipment used for this test must be capable of developing 10 x air flow determined in paragraph (e)(2)(iii) of this specification.

(iii) Air infiltration test. Air infiltration shall not exceed the limits set forth below when tested in accordance with ASTM E–283 at an exterior pressure differential of 1.56 pounds per square foot (0.300″ water pressure).

1.35 CFM per sq. ft. of door ..... Jan. 1, 1975
1.2 CFM per sq. ft. of door ..... Jan. 1, 1976
1.0 CFM per sq. ft. of door ..... Jan. 1, 1977

(iv) Water resistance test. No water shall pass the interior face of the test specimen at a test pressure of 10 psf when tested in accordance with ASTM E–331.

(v) The sequence of tests shall be performed as they are listed above. The Air Infiltration Test may be performed after the Water Resistance Test providing all sealed areas are thoroughly dried.

Subpart F. Thermal Protection

280.501. Scope.

This subpart sets forth the requirements for condensation control, air infiltration, thermal insulation and certification for heating and comfort cooling.

280.502. Definitions.

(a) The following definitions are applicable to Subpart F only:

(1) "Pressure Envelope" means that primary air barrier surrounding the living space which serves to limit air leakage. In construction using ventilated cavities, the pressure envelope is the interior skin.

(2) "Thermal Envelope Area" means the sum of the surface areas of outside walls, ceiling and floor, including all openings. The wall area is measured by multiplying outside wall lengths by the inside wall height from floor to ceiling. The floor and ceiling areas are considered as horizontal surfaces using exterior width and length.

280.503. Materials.

Materials used for insulation shall be of proven effectiveness and adequate durability to assure that required design conditions concerning thermal transmission are attained.

280.504. Condensation Control (Vapor Barriers).

(a) Ceilings. Ceilings shall have a vapor barrier having a permeance not greater than 1 perm (dry cup method) installed on the living space side of the roof cavity.

(b) Exterior walls.

(1) Exterior walls shall have a vapor barrier not greater than 1 perm (dry cup method) installed on the living space side of the wall, or

(2) Unventilated wall cavities shall have an external covering and/or sheathing which forms the pressure envelope. The covering and/or sheathing shall have a combined permeance of not less than 5.0 perms. In the absence of test data, combined permeance may be computed using the formula:

$$P_{Total} = \frac{1}{\frac{1}{P_1} \quad \frac{1}{P_2}}$$

where P_1 and P_2 are the permeance values of the exterior covering and sheathing in perms.

Formed exterior siding applied in sections with joints not caulked or sealed shall not be considered to restrict water vapor transmission, or

(3) Wall cavities shall be constructed so that ventilation is provided to dissipate any condensation occurring in these cavities.

280.505. Air Infiltration.

(a) Envelope air infiltration. The opaque envelope shall be designed and constructed to limit air infiltration to the living area of the home. Any design, material, method or combination thereof which accomplishes this goal may be used. The goal of the infiltration control criteria is to reduce heat loss/heat gain due to infiltration as much as possible without impinging on health and comfort and within the limits of reasonable economics.

(1) Envelope penetrations. Plumbing, mechanical and electrical penetrations of the pressure envelope not exempted by this part, and installations of window and door frames shall be constructed or treated to limit air infiltration. Penetrations of the pressure envelope made by electrical equipment, other than distribution panel boards and cable and conduit penetrations, are exempt from this requirement. Cable penetrations through outlet boxes are considered exempt.

(2) Joints between major envelope elements. Joints not designed to limit air infiltration between wall–to–wall, wall–to–ceiling and wall–to–floor connections shall be caulked or otherwise sealed. When walls are constructed to form a pressure envelope on the outside of the wall cavity, they are deemed to meet this requirement.

280.506. Heat Loss.

The mobile home heat loss/heat gain shall be determined by methods outlined in 280.508 and 280.509. The outdoor winter design temperature zone for which the mobile home is acceptable and the lowest outdoor temperature to which the installed heating equipment will maintain a temperature of 70° F shall be certified as specified in 280.510 of this subpart.

(a) Transmission Heat Loss Coefficient. The overall coefficient of heat transmission of the mobile home for the responsive zones and an indoor design temperature of 70° F, including internal and external ducts, and excluding infiltration ventilation and condensation control, shall not exceed the B.T.U./ (hr.) (sq. ft.) (F) of the mobile home envelope area as tabulated below

Zone	*Maximum transmission coefficient*
I	.157 Btu/(hr.) (sq. ft.) (F)
II	.126 Btu/(hr.) (sq. ft.) (F)
III	.104 Btu/(hr.) (sq. ft.) (F)

(b) To assure uniform heat transmission in mobile homes, cavities in exterior walls, floors, and ceilings shall be provided with thermal insulation.

(c) Mobile homes designed for Zones II and III shall be factory equipped with storm windows or insulating glass.

280.507. Comfort Heat Gain.

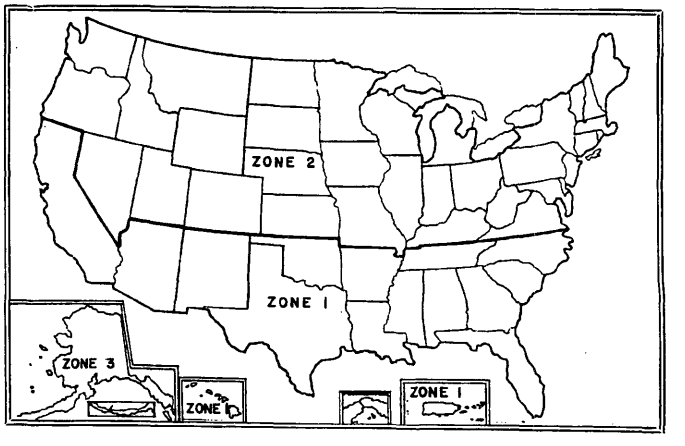
Information necessary to calculate the home cooling load shall be provided as specified in this Part.

(a) Transmission heat gains. Homes complying with this section shall meet the minimum heat loss transmission coefficients specified in 280.506(a).

280.508. Heat Loss, Heat Gain and Cooling Load Calculations.

Information, values and data necessary for heat loss and heat gain determinations shall be taken from the 1972 ASHRAE Handbook of Fundamentals.

Infiltration and Ventilation—Chapter 19.
Determining "R" & "U" Value—Chapter 20.
Heating Load—Chapter 21.
Cooling Load Calculations—Chapter 22.
Outdoor Winter Design Temperatures (Use 97–1/2 percent values)—Chapter 33.
Outdoor Summer Design Temperatures (Use 2–1/2 percent values)—Chapter 33.



280.509. Criteria in Absence of Specific Data.

In the absence of specific data, for purposes of heat–loss/gain calculation, the following criteria shall be used:

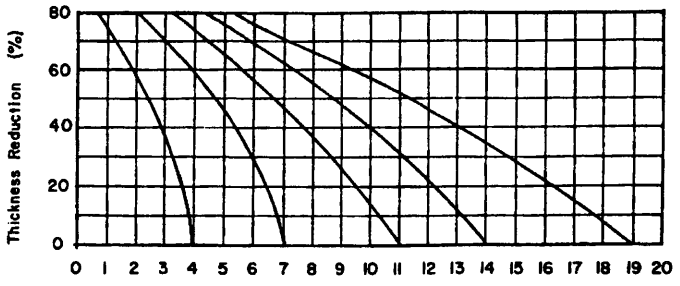
(a) Infiltration Heat Loss. In the absence of measured infiltration heat loss data, the following formula shall be used to calculate heat loss due to infiltration and intermittently operated fans exhausting to the outdoors. The perimeter calculation shall be based on the dimensions of the pressure envelope.

Infiltration Heat–Loss = 0.7 (T) (ft. of perimeter), BTU/hr. where: T–70 minus the heating system capacity certification temperature stipulated in the Heating Certificate, in F.

(b) Framing areas.

Wall	15 percent of wall area less windows and doors.
Floor and Ceiling	10 percent of the area.

(c) Insulation compression. Insulation compressed to less than nominal thickness hall have its nominal R–values reduced for that area which is compressed in accordance with the following graph:



When insulation is installed over the framing members the thermal performance of the insulation is reduced due to compression to the framing members. The Resistance value of the insulation between the framing members is reduced by 12.5 percent for framing members 16″ O.C., 8.5 percent for framing members 24″ O.C., and 4 percent for framing members 16″ O.C., 8.5 percent for framing members 24″ O.C., and 4 percent for framing members 48″ O.C.

(d) Air supply ducts within floor cavity. Air supply ducts located within a floor cavity shall be assumed to be heating or cooling the floor cavity to living space temperatures unless the duct is structurally isolated by the framing system or thermally insulated from the rest of the floor cavity with a thermal insulation at least equal to R–4.

(e) Air supply ducts within ceiling cavity. Where supply ducts are located in ceiling cavities, the influence of the duct on cavity temperatures shall be considered in calculating envelope heat loss or heat gain.

(f) The supply duct loss (and/or heat gain where applicable—See 280.511) shall be calculated using the actual duct surface area and the actual thickness of insulation between the duct and outside of the mobile home. If there is an air space of at least 1/2 inch between the duct and the insulation, heat loss/gain need not be calculated if the cavity in which the duct is located is assumed to be at living space temperature. The average temperature inside the supply duct, including ducts installed outside the mobile home, shall be assumed to be 130° F for purposes of calculation of heat loss and 60° F for heat gain.

(g) Return air cavities. Cavities used as return air plenums shall be considered to be at living space temperature.

280.510. Heat Loss Certificate.

The mobile home manufacturer shall permanently affix the following "Certificate" to an interior surface of the home that is readily visible to the homeowner. The "Certificate" shall specify the following:

(a) Heating zone certification. The design at which the mobile home heat loss complies with 280.506(a).

(b) Outdoor certification temperature. The lowest outdoor temperature at which the installed heating equipment will maintain a 70° F temperature inside the home without storm sash or insulating glass for Zone I and with storm sash or insulating glass or Zones II and III and complying with 280.508 and 280.509.

HEATING CERTIFICATE

Home Manufacturer .....
Plant Location .....
Home Model .....
(Include Winter Climate Zone Map)

This mobile home has been thermally insulated to conform with the requirements of the Federal Mobile Home Construction and Safety Standards for all locations with climatic Zone ____.

Heating Equipment Manufacturer .....
Heating Equipment Model .....

The above heating equipment has the capacity to maintain an average 70° F temperature in this home at outdoor temperatures of ___ F.

To maximize furnace operating economy, and to conserve energy, it is recommended that this home be installed where the outdoor winter design temperature (97–1/2%) is not higher than ____ degrees Fahrenheit.[1]

The above information has been calculated assuming a maximum wind velocity of 15 MPH at standard atmospheric pressure.

[1]The temperature to be specified shall be 20° F or 30% of the design temperature difference, whichever is greater, added to the temperature specified as the heating system capacity certification temperature without storm windows or insulating glass for Zone 1 and with storm windows or insulating glass for Zones II and III. Design temperature difference is 70 minus the heating system capacity certification temperature in degrees Fahrenheit.

280.511. Comfort Cooling Certificate and Information.

(a) The mobile home manufacturer shall permanently affix a "Comfort Cooling Certificate" to an interior surface of the home that is readily visible to the home owner. This certificate may be combined with the heating certificate required in 280.510. The manufacturer shall comply with one of the following three alternatives in providing the certificate and additional information concerning the cooling of the mobile home:

(1) Alternative 1. If a central air conditioning system is provided by the home manufacturer, the heat gain calculation necessary to properly size the air conditioning equipment shall be in accordance with procedures outlined in Chapter 22 of the ASHRAE Handbook of Fundamentals, with an assumed location and orientation. The following information shall be supplied on the Comfort Cooling Certificate:

Air Conditioner Manufacturer .....
Air Conditioner Model .....
Certified Capacity ___ BTU/Hr. in accordance with the appropriate Air Conditioning and Refrigeration Institute Standards.

The central air conditioning system provided with this home has been sized, assuming an orientation of the front (hitch) end of the home facing ____ and is designed on the basis of a 75° F indoor temperature and an outdoor temperature of ___ F dry bulb and ___ F wet bulb.

EXAMPLE ALTERNATE 1
COMFORT COOLING CERTIFICATE

Mobile Home Mfg. .....
Plant Location .....
Mobile Home Model .....
Air Conditioner Manufacturer .....
Air Conditioner Model .....

Certified Capacity—B.T.U./Hr. in accordance with the appropriate Air Conditioning and Refrigeration Institution Standards.

The central air conditioning system provided with this home has been sized assuming an orientation of the front (hitch end) of the home facing ____. On this basis the system is designed to maintain an indoor temperature of 75° F when outdoor temperatures are ___ F dry bulb and ___ F wet bulb.

The temperature to which this home can be cooled will change depending upon the amount of exposure of the windows of this home to the sun's

radiant heat. Therefore, the home's heat gains will vary dependent upon its orientation to the sun and any permanent shading provided. Information concerning the calculation of cooling loads at various locations, window exposures and shadings are provided in Chapter 22 of the 1972 edition of the ASHRAE Handbook of Fundamentals.

Information necessary to calculate cooling loads at various locations and orientations is provided in the special comfort cooling information provided with this mobile home.

(2) Alternative 2. For each home suitable for a central air cooling system, the manufacturer shall provide the following statement: "This air distribution system of this home is suitable for the installation of a central air conditioning system."

EXAMPLE ALTERNATE 2
COMFORT COOLING CERTIFICATE

Mobile Home Manufacturer .....
Plant Location .....
Mobile Home Model .....

This air distribution system of this home is suitable for the installation of central air conditioning.

The supply air distribution system installed in this home is sized for Mobile Home Central Air Conditioning System of up to ____ B.T.U./Hr. rated capacity which are certified in accordance with the appropriate Air Conditioning and Refrigeration Institute Standards. When the air circulators of such air conditioners are rated at 0.3 inch water column static pressure or greater for the cooling air delivered to the mobile home supply air duct system.

Information necessary to calculate cooling loads at various locations and orientations is provided in the special comfort cooling information provided with this mobile home.

(3) Alternative 3. If the mobile home is not equipped with an air supply duct system, or if the manufacturer elects not to designate the home as being suitable for the installation of a central air conditioning system, the manufacturer shall provide the following statement: "This air distribution system of this home has not been designed in anticipation of its use with a central air conditioning system."

EXAMPLE ALTERNATE 3
COMFORT COOLING CERTIFICATE

Mobile Home Mfg. .....
Plant Location .....
Mobile Home Model .....

The air distribution system of this home has not been designed in anticipation of its use with a central air conditioning system.

(b) For each home designated as suitable for central air conditioning the manufacturer shall provide the maximum central mobile home air conditioning capacity certified in accordance with the appropriate A.R.I. standards and in accordance with 280.715(a)(3). If the capacity information provided its based on entrances to the air supply duct at other than the furnace plenum, the manufacturer shall indicate the correct supply air entrance and return air exit locations.

(c) Comfort cooling information. For each mobile home designated either "suitable for" or "provided with" a central air conditioning system the manufacturer shall provide comfort cooling information specific to the mobile home necessary to complete the cooling load calculations. The comfort cooling information shall include a statement to read as follows:

To determine the required capacity of equipment to cool a home efficiently and economically, a cooling load (heat gain) calculation is required. The cooling load is dependent on the orientation, location and the structure of the home. Central air conditioners operate most efficiently and provide the greatest comfort when their capacity closely approximates the calculated cooling load. Each home's air conditioner should be sized in accordance with Chapter 22 of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Handbooks of Fundamentals, once the location and orientation are known.

INFORMATION PROVIDED BY THE MANUFACTURER
NECESSARY TO CALCULATE SENSIBLE HEAT GAIN

Walls (without windows and doors) .... "U" .....
Ceilings and roofs of light color ..... "U" .....
Ceilings and roofs of dark color ..... "U" .....
Floors ..... "U" .....
Air ducts in floor ..... "U" .....
Air ducts in ceiling ..... "U" .....
Air ducts installed outside the home .... "U" .....

Information necessary to calculate duct area.

Subpart G—Plumbing Systems

280.601. Scope.

Subpart G of this Standard covers the plumbing materials, fixtures, and equipment installed within or on mobile homes. It is the intent of this subpart to assure water supply, drain, waste and vent systems which permit satisfactory functioning and provide for health and safety under all conditions of normal use.

280.602. Definitions.

(a) The following definitions are applicable to Subpart G only:

(1) "Accessible," when applied to a fixture, connection, appliance or equipment, means having access hereto, but which may require removal of an access panel or opening of a door.

(2) "Air Gap (Water Distribution System)" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, water supplied appliances, or other device and the flood level rim of the receptacle.

(3) "Anti–Siphon Trap Vent Device" means a device which automatically opens to admit air to a fixture drain above the connection of the trap arm so as to prevent siphonage, and closes tightly when the pressure within the drainage system is equal to or greater than atmospheric pressure so as to prevent the escape of gases from the drainage system into the mobile home.

(4) "Backflow" means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended sources.

(5) "Backflow Connection" means any arrangement whereby backflow can occur.

(6) "Backflow Preventer" means a device or means to prevent backflow.

(7) "Branch" means any part of the piping system other than a riser, main or stack.

(8) "Common Vent" means a vent connecting at the junction of fixture drains and serving as a vent for more than one fixture.

(9) "Continuous Vent" means a vertical vent that is a continuation of the drain to which it connects.

(10) "Continuous Waste" means a drain from two or more fixtures connected to a single trap.

(11) "Critical Level" means a point established by the testing laboratory (usually stamped on the device by the manufacturer) which determines the minimum elevation above the flood level rim of the fixture or receptacle served on which the device may be installed. When a backflow prevention device does not bear a critical level marking, the bottom of the vacuum breaker, combination valve, or of any such approved or listed device shall constitute the critical level.

(12) "Cross Connection" means any physical connection or arrangement between two otherwise separate systems or sources, one of which contains potable water and the other either water, steam, gas or chemical of unknown or questionable safety whereby there may be a flow from one system or source to the other, the direction of flow depending on the pressure differential between the two systems.

(13) "Developed Length" means that length of pipe measured along the center line of the pipe and fittings.

(14) "Diameter," unless otherwise specifically stated, means the nominal (inside) diameter designated commercially.

(15) "Drain" means a pipe that carries waste, water, or water–borne waste in a drainage system.

(16) "Drain Connector" means the removable extension, consisting of all pipes, fittings and appurtenances, from the drain outlet to the drain inlet serving the mobile home.

(17) "Drain Outlet" means the lowest end of the main or secondary drain to which a sewer connection is made.

(18) "Drainage System" means all piping within or attached to the structure that conveys sewage or other liquid waste to the drain outlet, not including the drain connector.

(19) "Fixture Drain" means the drain from the trap of a fixture to the junction of that drain with any other drain pipe.

(20) "Fixture Supply" means the water supply pipe connecting a fixture to a branch water supply pipe or directly to a main water supply pipe.

(21) "Flood–Level" means the level in the receptacle over which water would overflow to the outside of the receptacle.

(22) "Flooded" means the condition which results when the liquid in a container or receptacle rises to the flood–level.

(23) "Flush Tank" means that portion of a toilet that is designed to contain sufficient water to adequately flush the fixture.

(24) "Flush Valve" means a device located at the bottom of a flush tank for flushing a toilet.

(25) "Flushometer Valve" means a device which discharges a predetermined quantity of water to a fixture for flushing purposes and is closed by direct water pressure.

(26) "Grade" means the fall (slope) of a pipe in reference to a horizontal plane expressed in inches per foot length.

(27) "Horizontal Branch" means any pipe extending laterally, which receives the discharge from one or more fixture drains and connects to the main drain.

(28) "Horizontal Pipe" means any pipe or fitting which makes an angle of not more than 45 degrees with the horizontal.

(29) "Individual Vent" means a pipe installed to vent a fixture drain.

(30) "Inlet Coupling" means the terminal end of the water system to which the water service connection is attached. It may be a swivel–fitting or threaded pipe end.

(31) "Main" means the principal artery of the system to which branches may be connected.

(32) "Main Drain" means the lowest pipe of a drainage system which receives sewage from all the fixtures within a mobile home and conducts these wastes to the drain outlet.

(33) "Main Vent" means the principal artery of the venting system to which vent branches may be connected.

(34) "Offset" means a combination of a pipe and/or fittings that brings one section of the pipe out of line but into a line parallel with the other section.

(35) "Pitch." See grade.

(36) "Plumbing Fixtures" means receptacles, devices, or appliances which are supplied with water or which receive liquid borne wastes for discharge into the drainage system.

(37) "Plumbing System" means the water supply and distribution pipes; plumbing fixtures, faucets and traps; soil, waste and vent pipes; and water–treating or water–using equipment.

(38) "Primary Vent." See Main Vent.

(39) "Relief Vent" means an auxiliary vent which permits additional circulation of air in or between drainage and vent systems.

(40) "Secondary Vent" means any vent other than the main vent or those serving each toilet.

(41) "Sewage" means any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

(42) "Siphonage" means the loss of water seal from fixture traps resulting from partial vacuum in the drainage system which may be of either of the following two types, or a combination of the two:

(a) Self–siphonage resulting from vacuum in a fixture drain generated solely by the discharge of the fixture served by the drain, or,

(b) Induced siphonage resulting from vacuum in the drainage system generated by the discharge of one or more fixtures other than the one under observation.

(43) "Toilet Drain" means that part of the drainage piping which receives the discharge from each individual toilet.

(44) "Trap" means a fitting or device designed and constructed to provide a liquid seal that will prevent the back passage of air without materially affecting the flow of liquid waste through it.

(45) "Trap Arm" means the portion of a fixture drain between a trap and its vent.

(46) "Trap Seal" means the vertical depth of liquid that a trap will retain.

(47) "Vacuum Breaker." See Backflow Preventer.

(48) "Vent Cap" means the device or fitting which protects the vent pipe from foreign substance with an opening to the atmosphere equal to the area of the vent it serves.

(49) "Vent System" means that part of a piping installation which provides circulation of air within a drainage system.

(50) "Vertical Pipe" means any pipe or fitting which makes an angle of not more than 45 degrees with the vertical.

(51) "Water Connection" means the fitting or point of connection for the mobile home water distribution system designed for connection to a water supply.

(52) "Water Connector" means the removable extension connecting the mobile home water distribution system to the water supply.

(53) "Water Distribution System" means potable water piping within or permanently attached to the mobile home.

(54) "Wet Vent" means a vent which also serves as a drain for one or more fixtures.

(55) "Wet Vented Drainage System" means the specially designed system of drain piping that also vents one or more plumbing fixtures by means of a common waste and vent pipe.

280.603. General Requirements.

(a) Minimum requirements. Any plumbing system installed in a mobile home shall conform, at least, with the provisions of this subpart.

(1) General. The plumbing system shall be of durable material, free from defective workmanship, and so designed and constructed as to give satisfactory service for a reasonable life expectancy.

(2) Conservation. Water closets shall be selected and adjusted to use the minimum quantity of water consistent with proper performance and cleaning.

(3) Connection to drainage system. All plumbing, fixtures, drains, appurtenances, and appliances designed or used to receive or discharge liquid waste or sewage shall be connected to the mobile home drainage system in a manner provided by this standard.

(4) Workmanship. All design, construction, and workmanship shall be in conformance with accepted engineering practices and shall be of such character as to secure the results sought to be obtained by this standard.

(5) Components. Plumbing materials, devices, fixtures, fittings, equipment, appliances, and accessories intended for use in or attached to a mobile home, and not shown in the Table in 280.604, shall be listed or certified by an approved listing agency, or be specifically approved by the Department when Listing by an approved listing agency is not available.

(6) Prohibited fittings and practices. (i) Drainage or vent piping shall not be drilled and tapped for the purpose of making connections. (ii) Except as specifically provided elsewhere in this standard, vent pipes shall not be used as waste or drain pipes. (iii) Fittings, connections, devices, or methods of installation that obstruct or retard the flow of sewage, or air in the drainage or venting systems in an amount greater than the nor-

mal frictional resistance to flow shall not be used unless their use is acceptable in this standard or their use is accepted as having a desirable and acceptable function of ultimate benefit to the proper and continued functioning of the plumbing system. (iv) Cracks, holes, or other imperfections in materials shall not be concealed by welding, brazing, or soldering or by paint, wax, tar, or other leak–sealing or repairing agents. (v) Piping, fixtures or equipment shall be located so as not to interfere with the normal use or with the normal operation and use of windows, doors or other required facilities. (vi) Galvanized pipe shall not be bent or welded.

(7) Alignment of fittings. All valves, pipes, and fittings shall be installed in correct relationship to the direction of flow.

(b) Protective requirements.

(1) Cutting structural members. Structural members shall not be unnecessarily or carelessly weakened by cutting or notching.

(2) Exposed piping. All piping, pipe threads, hangers, and support exposed to the weather, water, mud, and road hazard, and subject to damage therefrom, shall be painted, coated, wrapped, or otherwise protected from deterioration.

(3) Road damage. Pipes, supports, drains, outlets, or drain hoses shall not extend or protrude in a manner where they could be unduly subjected to damage during transit.

(4) Freezing. All piping and fixtures subject to freezing temperatures shall be insulated or protected to prevent freezing, under normal occupancy. The manufacturer shall provide: (i) Written installation instructions for the method(s) required for compliance to this section; (ii) a statement in his installation instructions that if heat tape is used it shall be listed for use with mobile homes; (iii) a receptacle outlet conveniently located for the use of a heat tape and in compliance with 280.806(b).

(5) All piping, except the fixture trap, shall be designed to allow drainage.

(6) Rodent resistance. All exterior openings around piping and equipment shall be sealed to resist the entrance of rodents.

(7) Piping and electrical wiring shall not pass through the same holes in walls, floors or roofs. Plastic piping shall not be exposed to heat in excess of manufacturers recommendation or radiation from heat producing appliances.

280.604. Materials.

(a) Minimum standards. Materials, fixtures, or devices used or entering into the construction of plumbing systems in any mobile home shall be free from defects and shall conform to approved standards or to applicable standards in the following Table.

(b) Specific usage. Each of the sections following the Table indicates specifically the type of material presently permitted for use in the various parts of the plumbing system.

280.605. Joints and Connections.

(a) Tightness. Joints and connections in the plumbing system shall be gastight and watertight for the pressures required under testing procedures.

(1) Assembling of pipe. All joints and connections shall be correctly assembled for tightness. Pipe threads shall be fully engaged with the threads of the fitting. Plastic pipe and copper tubing shall be inserted to the full depth of the solder cup or welding sockets of each fitting. Pipe threads and slip joints shall not be wrapped with string, paper, putty, or similar fillers.

Materials	*ANSI*	*ASTM*	*FS*	*Other Standard*
Ferrous pipe and fittings				
Cast iron screwed fittings	B16.4-1971			
Malleable iron screwed fittings	B16.3-1971			
Special cast iron fittings				IAPMO PS 8-1966
Welded wrought iron pipe	B36.2-1969	A72-1968		
Wrought steel and wrought iron pipe	B36.10-1970			
Black and hot dipped zinc-coated (galvanized) welded and seamless steel pipe		A120-1972a		
Welded and seamless steel pipe	B125.1-1972	A53-1972a		
Pipe threads (except dry-seal)	B2.1-1968			
Cast iron soil piping and fittings	A112.5.1-1971	A74-1972	WW-P-401D-1969	
Nonferrous pipe and fittings				
Seamless copper, pipe, standard sizes	H26.1-1973	B42-1972		
Wrought seamless copper and copper alloy tube	H23.4-1973	B251-1971		
Seamless copper water tube	H23.1-1973	B88-1972		
Copper drainage tube (DWV)	H23.6-1973	B306-1973		
Wrought copper and bronze solder joint pressure fittings	B16.22-1973			
Wrought copper and wrought copper alloy solder-joint drainage fittings	B16.29-1966			
Cast brass solder-joint pressure fittings	B16.18-1972			
Cast bronze solder-joint drainage fittings-DWV	B16.23-1969			
Cast bronze fittings for flared copper tubes	B16.26-1967			
Seamless red brass pipe, standard sizes	H27.1-1973	B43-1972		
Cast bronze threaded fittings, 150 and 300 pound	B16.15-1971			
Plastic Pipe and Fittings				
ABS plastic drain, waste, and vent pipe and fittings		D2261-1973	L-P-322B-1973	IAPMO PS 17-71 NSF 14-1970
PVC plastic drain, waste, and vent pipe and fittings		D2665-1973	L-P-320B-1973	IAPMO PS 27-69 1973 NSF-14-1970
chlorinated poly (vinyl/chloride) (CPVC) plastic hot water distribution systems		D2846-1973		NSF-14-1970
Polybutylene (PB) plastic pipe (SDR-PR)		D2662-1973		
Polybutylene (PB) plastic hot water distribution systems miscellaneous		D3309-1974		
Pipe nipples, threaded			WW-N-351B(1)-1970	
Rubber gaskets for cast iron soil pipe fittings		C564-1970		
Backflow prevention devices	A112.14.1-1975			IAPMO PS 31-1971
Valve, bronze, gate 125–150 and 200 pound			WW-V-54D-1973	
Valve, cast-iron gate, threaded and flanges			WW-V-58B-1971	
Plumbing-fixture-setting compound			HH-C-536A-1954	
Cast brass and tubing P-traps				IAPMO PS 2-1966
Relief valves and automatic gas shutoff devices for hot water supply systems	Z21.22[1]-1971			
Solvent cement for ABS plastic pipe and fittings		D2235-1973		NSF-14-1970

[1] With Addenda.

Materials	*ANSI*	*ASTM*	*FS*	*Other Standards*
Solvent cement for PVC plastic pipe and fittings		D2564-1973		NSF-14-1970
Anti-siphon trap vent device				NSF-24
Diversion tees and twin waste elbow				IAPMO PS 9-66
Flexible copper water connectors				IAPMO PS 14-1971
Dishwater drain airgaps				IAPMO PS 23-1968
Coated flexible metal gas connectors for exterior use				IAPMO TSC 9-1972
Plumbing fixtures				
Plumbing fixtures for land use			WW-P-541D-1971	
Vitreous china plumbing fixtures	A112.19.2-1973			
Enameled cast iron plumbing	A112.19.1-1973			
Porcelain enameled formed steel plumbing fixtures				IAPMO TSC-22 1972
Formed metal porcelain-enameled sanitaryware				IAPMO PS 5-1967
Plastic bathtub units	Z124.1-1974			
Gel-coated glass-fiber reinforced polyester resin shower receptor and shower stall units	Z124.2-1967			
Stainless steel plumbing fixtures—residential use				CS-243-1962 NSF-24-1972
Drains for prefabricated and precast showers				IAPMO PS 4-1966 NSF-24-1972
Cultured marble lavatory				IAPMO PS 18-1973; CMI-LS 1-75
Performance specifications and methods of test for safety glazing material used in buildings	Z97.1-1972			NSF-24-72

[1] With Addenda.

(2) Threaded joints. Threads for screw pipe and fittings shall conform to the approved or listed standard. Pipe ends shall be reamed out to size of bore. All burrs, chips, cutting oil and foreign matter shall be removed. Pipe joint cement or thread lubricant shall be of approved type and applied to male threads only.

(3) Solder joints. Solder joints for tubing shall be made with approved or listed solder type fittings. Surfaces to be soldered shall be cleaned bright. The joints shall be properly fluxed with noncorrosive paste type flux and made with approved or listed 50–50 solder or an approved solder having a higher melting temperature.

(4) Plastic pipe, fittings and joints. Plastic pipe and fittings shall be joined by installation methods recommended by the manufacturer or in accordance with the provisions of a recognized, approved, or listed standard.

(5) Union joints. Metal unions in water piping shall have metal–to–metal ground seats.

(6) Flared joints. Flared joints for soft–copper water tubing shall be made with approved or listed fittings. The tubing shall be expanded with a proper flaring tool.

(7) Cast iron soil pipe joints. Approved or listed cast iron pipe may be joined as follows: (i) Approved or listed hubless pipe as per the manufacturer's recommendation. (ii) Hub and plain–end soil pipe may be joined by compression fittings per the manufacturer's recommendation.

280.606. Traps and Cleanouts.

(a) Traps.

(1) Traps required. Each plumbing fixture, except listed toilets, shall be separately trapped by approved water seal "P" traps. All traps shall be effectively vented.

(2) Dual fixtures. A two–compartment sink, two single sinks, two lavatories, or a single sink and a single lavatory with waste outlets not more than 30 inches apart and in the same room and flood level rims at the same level may be connected to one "P" trap and may be considered as a single fixture for the purpose of drainage and vent requirements.

(3) Prohibited traps. A trap which depends for its seal upon concealed interior partitions shall not be used. Full "S" traps, bell traps, drum traps, crown–vented traps, and running traps are prohibited. Fixtures shall not be double–trapped.

(4) Material and design. Each trap shall be self–cleaning with a smooth and uniform interior waterway. Traps shall be manufactured of cast iron, cast brass, or drawn brass tubing of not less than No. 20 Brown and Sharpe gage, or approved or listed plastic, or other approved or listed material. Union joints for a trap shall be beaded to provide a shoulder for the union nut. Each trap shall have the manufacturer's name stamped or cast in the body of the trap, and each tubing trap shall show the gage of the tubing.

(5) Trap seal. Each "P" trap shall have a water seal of not less than 2 inches and not more than 4 inches and shall be set true to its seal.

(6) Size. Traps shall be not less than 1–1/4 inches in diameter. A trap shall not be larger than the waste pipe to which it is connected.

(7) Location. Each trap shall be located as close to its vent and to its fixture outlet as structural conditions will permit.

(8) Length of tailpiece. The vertical distance from a trap to the fixture outlet shall not exceed 24 inches.

(9) Installation.

(i) Grade of trap arm. The piping between a "P" trap and the fixture tee or the vented waste line shall be graded 1/4 inch per foot towards the vent and in no event shall have a slope greater than its diameter. The vent opening at fixture tees shall not be below the weir of the "P" trap outlet.

(ii) Trap arm offset. The piping between the "P" trap and vent may change direction or be offset horizontally with the equivalent of no more than 180 degrees total change in direction with a maximum of 90 degrees by any one fitting.

(iii) Concealed traps. Traps with mechanical joints shall be accessible for repair and inspection.

(iv) Removability of Traps, Etc. Traps shall be designed and installed so the "U" bend is removable without removing the strainers from the fixture. Continuous waste and tail pieces which are permanently attached to the "U" bend shall also be removable without removing the strainer from the fixture.

(b) Cleanout openings.

(1) Location of cleanout fittings.

(i) Cleanouts shall be installed if the drainage system cannot be cleaned through fixtures, drains, or vents. Cleanouts shall also be provided when fittings of more than 45 degrees are used to affect an offset except where long turn ells are used which provide sufficient "sweep" for cleaning.

(ii) A full size cleanout shall be installed at the upper end of any section of drain piping which does not have the required minimum slope of 1/4 inch per foot grade.

(iii) A cleaning tool shall not be required to pass through more than 360 degrees of fittings, excluding removable "P" traps, to reach any part of the drainage system.

(2) Access to cleanouts. Cleanouts shall be accessible through an unobstructed minimum clearance of 12 inches directly in front of the opening. Each cleanout fitting shall open in a direction opposite to the flow or at right angles to the pipe. Concealed cleanouts that are not provided with access covers shall be extended to a point above the floor or outside of the mobile home, with pipe and fittings installed, as required, for drainage piping without sags and pockets.

(3) Material. Plugs and caps shall be brass or approved or listed plastic, with screw pipe threads.

(4) Design. Cleanout plugs shall have raised heads except that plugs at floor level shall have counter–sunk slots.

280.607. Plumbing Fixtures.

(a) General Requirements.

(1) Quality of fixtures. Plumbing fixtures shall have smooth impervious surfaces, be free from defects and concealed fouling surfaces, be capable of resisting road shock and vibration, and shall conform in quality and design to listed standards. Fixtures shall be permanently marked with the manufacturer's name.

(2) Strainers. The waste outlet of all plumbing fixtures, other than toilets, shall be equipped with a drain fitting that will provide an adequate unobstructed waterway.

(3) Fixture connections. Fixture tailpieces and continuous wastes in exposed or accessible locations shall be not less than No. 20 Brown and Sharpe gage seamless drawn–brass tubing or other approved pipe or tubing materials. Inaccessible fixture connections shall be constructed according to the requirements for drainage piping. Each fixture tailpiece, continuous waste, or waste and overflow shall be not less than 1–1/2 inches for sinks of two or more compartments, dishwashers, clothes washing machines, laundry tubs, bath tubs, and not less than 1–1/4 inches for lavoratories and single compartment sinks having a 2 inch maximum drain opening.

(4) Concealed connections. Concealed slip joint connections shall be provided with adequately sized unobstructed access panels and shall be accessible for inspection and repair.

(5) Directional fitting. An approved or listed "Y" or other directional–type branch fitting shall be installed in every tailpiece or continuous waste that receives the discharge from food waste disposal units, dishwashing, or other force–discharge fixture or appliance. (See also 280.607(b)(4)(ii).)

(b) Fixtures.

(1) Spacing. All plumbing fixtures shall be so installed with regard to spacing as to be reasonably accessible for their intended use.

(2) Toilets. (i) Toilets shall be designed and manufactured according to approved or listed standards and shall be equipped with a water flushing device capable of adequately flushing and cleaning the bowl at each operation of the flushing mechanism. (ii) Toilet flushing devices shall be designed to replace the water seal in the bowl after each operation. Flush valves, flushometer valves, and ball cocks shall operate automatically to shut off at the end of each flush or when the tank is filled to operating capacity. (iii) Flush tanks shall be fitted with an overflow pipe large enough to prevent flooding at the maximum flow rate of the ball cock. Overflow pipes shall discharge into the toilet, through the tank. (iv) Toilets that have fouling surfaces that are not thoroughly washed at each discharge shall be prohibited. Any toilet that might permit the contents of the bowl to be siphoned back into the water system shall be prohibited. (v) Floor connection. Toilets shall be securely bolted to an approved flange or other approved fitting which is secured to the floor by means of corrosion–resistant screws. The bolts shall be of solid brass or other corrosion–resistant material and shall not be less than 1/4 inch in diameter. A watertight seal shall be made between the toilet and flange or other approved fitting by use of a gasket or sealing compound.

(3) Shower compartment. (i) Each compartment stall shall be provided with an improved watertight receptor with sides and back extending at least 1 inch above the finished dam or threshold. In no case shall the depth of a shower receptor be less than 2 inches or more than 9 inches measured from the top of the finished dam or threshold to the top of the drain. The wall area shall be constructed of smooth, noncorrosive, and nonabsorbent waterproof materials to a height not less than 6 feet above the bathroom floor level. Such walls shall form a watertight joint with each other and with the bathtub, receptor or shower floor. The floor of the compartment shall slope uniformly to the drain at not less than one–fourth nor more than one–half inch per foot. (ii) The joint around the drain connection shall be made watertight by a flange, clamping ring, or other approved listed means. (iii) Shower doors and tub and shower enclosures shall be constructed so as to be waterproof and, if glazed, glazing shall comply with the Standard for Transparent Safety Glazing Material used in Buildings (ANSI Z97.1–1972). (iv) Prefabricated plumbing fixtures shall be approved or listed.

(4) Dishwashing machines. (i) Dishwashing machine shall not be directly connected to any waste piping, but shall discharge its waste through a fixed air gap installed above the machine. The drain connection from the air gap may connect to an individual trap, to a directional fitting installed in the sink tailpiece, or to the opening provided on the inlet side of a food waste disposal unit. (ii) Drain from a dishwashing machine shall not be connected to a sink tailpiece, continuous waste line, or trap on the discharge side of a food waste disposal unit.

(5) Clothes washing machines. (i) Clothes washing machines shall drain either into a properly vented trap, into a laundry tub tailpiece with watertight connections, into an open standpipe receptor, or over the rim of a laundry tub. (ii) Standpipes shall be 1–1/2 inches minimum nominal iron pipe size, 1–1/2 inches diameter nominal brass tubing not less than No. 20 Brown and Sharpe gage, or 1–1/2 inches approved plastic materials. Receptors shall discharge into a vented trap or shall be connected to

a laundry tub tailpiece by means of an approved or listed directional fitting. Each standpipe shall extend not less than 18 inches or more than 30 inches above its trap and shall terminate in an accessible location no lower than the top of clothes washing machine. A removable tightfitting cap or plug shall be installed on the standpipe when clothes washer is not provided. (iii) Clothes washing machine drain shall not be connected to the tailpiece, continuous waste, or trap of any sink or dishwashing machine.

(c) Installation.

(1) Access. Each plumbing fixture and standpipe receptor shall be located and installed in a manner to be accessible for usage, cleaning, repair and replacement.

(2) Alignment. Fixtures shall be set level and in true alignment with adjacent walls. Where practical, piping from fixtures shall extend to nearest wall.

(3) Brackets. Wall–hung fixtures shall be rigidly attached to walls by metal brackets or supports without any strain being transmitted to the piping connections. Flush tanks shall be securely fastened to toilets or to the wall with corrosive–resistant materials.

(4) Tub supports. Bathtub rims at wall shall be supported on metal hangers or on end–grain wood blocking attached to the wall unless otherwise recommended by the manufacturer of the tub.

280.608. Hangers and Supports.

(a) Stains and stresses. Piping in a plumbing system shall be installed without undue strains and stresses, and provision shall be made for expansion, contraction, and structural settlement.

(b) Piping supports. Piping shall be secured at sufficiently close intervals to keep the pipe in alignment and carry the weight of the pipe and contents. Unless otherwise stated in the standards for specific materials shown in the Table in 280.604(a), or unless specified by the pipe manufacturer, plastic drainage piping shall be supported at intervals not to exceed 4 feet and plastic water piping shall be supported at intervals not to exceed 3 feet.

(c) Hangers and anchors.

(1) Hangers and anchors shall be of sufficient strength to support their proportional share of the pipe alignments and prevent rattling.

(2) Piping shall be securely attached to the structure by hangers, clamps, or brackets which provide protection against motion, vibration, road shock, or torque in the chassis.

(3) Hangers and straps supporting plastic pipe shall not compress, distort, cut or abrade the piping and shall allow free movement of the pipe.

280.609. Water Distribution System.

(a) Water supply.

(1) Supply piping. Piping systems shall be sized to provide an adequate quantity of water to each plumbing fixture at a flow rate sufficient to keep the fixture in a clean and sanitary condition without any danger of backflow or siphonage (See Table in 280.609(f)(1)). The manufacturer shall include in his written installation instructions that the mobile home has been designed for an inlet water pressure of 80 psi, and a statement that when the mobile home is to be installed in areas where the water pressure exceeds 80 psi, a pressure reducing valve should be installed.

(2) Hot water supply. Each mobile home equipped with a kitchen sink, and bathtub and/or shower shall be provided with a hot water supply system including a listed water heater.

(b) Water outlets and supply connections.

(1) Water connection. Each mobile home with a water distribution system shall be equipped with a 3/4–inch threaded inlet connection located within the rear half of the length of the mobile home. This connection shall be tagged or market "Fresh Water Connection" (or "Fresh Water Fill"). A matching cap or plug shall be provided to seal the water inlet when it is not in use, and shall be permanently attached to the mobile home or water supply piping. When a master cold water shutoff full flow valve is not installed on the main feeder line in an accessible location, the manufacturer's installation instructions shall indicate that such a valve is to be installed in the water supply line adjacent to the home. When a mobile home includes expandable rooms or is composed of two or more units, fittings or connectors designed for such purpose shall be provided to connect any water piping. When not connected, the water piping shall be protected by means of matching threaded caps or plugs.

(2) Prohibited connections. (i) The installation of potable water supply piping or fixture or appliance connections shall be made in a manner to preclude the possibility of backflow. (ii) No part of any water system shall be connected to any drainage or vent piping.

(3) Rim outlets. The outlets of faucets, spouts, and similar devices shall be spaced at least 1 inch above the flood level of the fixture.

(4) Appliance connections. Water supplies connected to clothes washing or dishwashing machines shall be protected by an approved or listed fixed air gap provided within the appliance by the manufacturer.

(5) Flushometer valves or manually operated flush valves. An approved or listed vacuum breaker shall be installed and maintained in the water supply line on the discharge side of a toilet flushometer valve or manually operated flush valve. Vacuum breakers shall have a minimum clearance of 6 inches above the flood level of the fixture to the critical level mark unless otherwise permitted in their approval.

(6) Flush tanks. Toilet flush tanks shall be equipped with an approved or listed anti–siphon ball cock which shall be installed and maintained with its outlet or critical level mark not less than 1 inch above the full opening of the overflow pipe.

(c) Water heater safety devices.

(1) Relief valves. (i) all water heaters shall be installed with approved and listed fully automatic valve or valves designed to provide temperature and pressure relief. (ii) Any temperature relief valve or combined pressure and temperature relief valve installed for this purpose shall have the temperature sensing element immersed in the hottest water within the upper 6 inches of the tank. It shall be set to start relieving at a pressure of 150 psi or the rated working pressure of the tank whichever is lower and at or below a water temperature of 210° F. (iii) Relief valves shall be provided with full–sized drains, with cross sectional areas equivalent to that of the relief valve outlet, which shall be directed downward and discharge beneath the mobile home. Drain lines shall be of a material listed for hot water distribution and shall drain fully by gravity, shall not be trapped, and shall not have their outlets threaded, and the end of the drain shall be visible for inspection.

(d) Materials.

(1) Piping material. Water pipe shall be of standard weight brass, galvanized wrought iron, galvanized steel, Type K, L or M copper tubing, approved or listed plastic or other approved or listed material.

(i) Plastic Piping. All plastic water piping and fittings in mobile homes must be approved or listed for use with hot water.

(2) Fittings. Appropriate fittings shall be used for all changes in size and where pipes are joined. The material and design of fittings shall conform to the type of piping used. Special consideration shall be given to prevent corrosion when dissimilar metals are joined. (i) Fittings for screw piping shall be standard weight galvanized iron for galvanized iron and steel pipe, and of brass for brass piping. They shall be installed where required for change in direction, reduction of size, or where pipes are joined together. (ii) Fittings for copper tubing shall be cast brass or drawn copper (sweat–soldered) or shall be approved or listed fittings for the purpose intended.

(3) Prohibited material. Used piping materials shall not be permitted. Those pipe dopes, solder fluxes, oils, solvents, chemicals, or other substances that are toxic, corrosive, or otherwise detrimental to the water system shall not be used.

(e) Installation of piping.

(1) Minimum requirement. All piping equipment, appurtances, and devices shall be installed in workmanlike manner and shall conform with the provisions and intent of this standard.

(2) Screw pipe. Iron pipe–size brass or galvanized iron or steel pipe fittings shall be joined with approved or listed standard pipe threads fully engaged in the fittings. Pipe ends shall be reamed to the full bore of the

pipe. Pipe–joint compound shall be insoluble in water, shall be nontoxic and shall be applied to male threads only.

(3) Solder fittings. Joints in copper water tube shall be made by the appropriate use of approved cast brass or wrought copper fittings, properly soldered together. The surface to be soldered shall be thoroughly cleaned bright mechanically. The joints shall be properly fluxed and made with approved solder.

(4) Flared fittings. A flaring tool shall be used to shape the ends of flared tubing to match the flare of fittings.

(5) Plastic pipe and fittings. Plastic pipe and fittings shall be joined by installation methods recommended by the manufacturer or in accordance with provisions of a listed standard.

(f) Size of water supply piping.

(1) Minimum size. The size of water supply piping and branch lines shall not be less than sizes shown in the following table:

MINIMUM SIZE TUBING AND PIPE FOR WATER DISTRIBUTION SYSTEMS

Number of fixtures	Tubing (Nominal) *Diameter (inches)*	*Outer diameter (inches)*	*pipe iron pipe size (inches)*
1	1/4*	3/8	1/2
2	3/8	1/2	1/2
3	1/2	5/8	1/2
4	1/2	5/8	1/2
5 or more	3/4	7/8	3/4

*6 ft. maximum length.

Exceptions to table: 3/8 inch nominal diameter or 1/2 inch OD minimum size for clothes washing or dishwashing machines, unless larger size is recommended by the fixture manufacturer. 1/2 inch nominal diameter or 5/8 inch OD minimum size for flushometer or metering type valves unless otherwise specified in their listing. No galvanized screw piping shall be less than 1/2 inch iron pipe size.

(2) Sizing procedures. Both hot and cold water piping systems shall be computed by the following method: (i) Size of branch. Start at the most remote outlet on any branch of the hot or cold water piping and progressively count towards the water service connection, computing the total number of fixtures supplied along each section of piping. Where branches are joined together, the number of fixtures on each branch shall be totalled so that no fixture is counted twice. Following down the left–hand column of the preceding Table a corresponding number of fixtures will be found. The required pipe or tubing size is indicated in the other columns on the same line. (ii) A water heater, food waste disposal unit, evaporative cooler or ice maker shall not be counted as a water–using fixture when computing pipe sizes.

(g) Line valves. Valves, when installed in the water supply distribution system (except those immediately controlling one fixture supply) and when fully opened, shall have a cross–sectional area of the smallest orifice or opening, through which the water flows, at least equal to the cross–sectional area of the nominal size of the pipe in which the valve is installed.

280.610. Drainage Systems.

(a) General.

(1) Each fixture directly connected to the drainage system shall be installed with a water seal trap (280.606(a)).

(2) The drainage system shall be designed to provide an adequate circulation of air in all piping with no danger of siphonage, aspiration, or forcing of trap seals under conditions of ordinary use.

(b) Materials.

(1) Pipe. Drainage piping shall be standard weight steel, wrought iron, brass, copper tube DWV, listed plastic, cast iron, or other listed or approved materials.

(2) Fittings. Drainage fittings shall be recessed drainage pattern and smooth interior waterways of the same diameter as the piping and shall be of a material conforming to the type of piping used. Drainage fittings shall be designed to provide for a 1/4 inch per foot grade in horizontal piping. (i) Fittings for screw pipe shall be cast iron, malleable iron, brass, or listed plastic with standard pipe threads. (ii) Fittings for copper tubing shall be cast brass or wrought copper. (iii) Socket–type fittings for plastic piping shall comply with listed standards. (iv) Brass or bronze adaptor or wrought copper fittings shall be used to join copper tubing to threaded pipe.

(c) Drain outlets.

(1) Location of drain. Each mobile home shall have only one drain outlet which shall terminate in the rear half section.

(2) Clearance from drain outlet. The drain outlet shall be provided with a minimum clearance of 3 inches in any direction from all parts of the structure or appurtenances and with not less than 18 inches unrestricted clearance directly in front of the drain outlet.

(3) Drain connector. The drain connector shall not be smaller than the piping to which it is connected and shall be equipped with a water–tight cap or plug matching the drain outlet. The cap or plug shall be permanently attached to the mobile home or drain outlet.

(4) The drain outlet and drain connector shall not be less than 3 inches inside diameter.

(5) Preassembly of drain lines. Drain lines, provided by the manufacturer, located under the mobile home, designed to bring the drain system to one distribution point and which may be damaged in transit, must be designed for proper site assembly.

(d) Fixture connections. Drainage piping shall be provided with approved or listed inlet fittings for fixture connections, correctly located according to the size and type of fixture to be connected.

(1) Toilet connection. The drain connection for each toilet shall be 3 inches minimum inside diameter and shall be fitted with an iron, brass, or listed plastic floor flange adaptor ring securely screwed, soldered or otherwise permanently attached to the drain piping, in an approved manner and securely fastened to the floor.

(e) Size of drainage piping.

(1) Fixture load. Except as provided by 280.611(d)(2), drain pipe sizes shall be determined by the type of fixture and the total number connected to each drain. (i) A 1–1/2 inch minimum diameter piping shall be required for one and not more than three individually vented fixtures. (ii) A 2–inch minimum diameter piping shall be required for four or more fixtures individually vented. (iii) A 3–inch minimum diameter piping shall be required for toilets.

(f) Wet–vented drainage system. Plumbing fixture traps may connect into a wet–vented drainage system which shall be designed and installed to accommodate the passage of air and waste in the same pipe.

(1) Horizontal piping. All parts of a wet–vented drainage system, including the connected fixture drains, shall be horizontal except for wet–vented vertical risers which shall terminate with a 1–1/2 inch minimum diameter continuous vent. Where required by structural design, wet–vented drain piping may be offset vertically when other vented fixture drains or relief vents are connected to the drain piping at or below the vertical offsets.

(2) Size. A wet–vented drain pipe shall be 2 inches minimum diameter and at least one pipe size larger than the largest connected trap or fixture drain. Not more than three fixtures may connect to a 2–inch diameter wet–vented drain system.

(3) Length of trap arm. Fixture traps shall be located within the distance given in 280.611(c)(5). Not more than one trap shall connect to a trap arm.

(g) Offsets and branch fittings.

(1) Changes in direction. Changes in direction of drainage piping shall be made by the appropriate use of approved or listed fittings, and shall be of the following angles: 11–1/4, 22–1/2, 45, 60, or 90 degrees; or other approved or listed fittings or combination of fittings with equivalent radius or sweep.

(2) Horizontal to vertical. Horizontal drainage lines, connecting with a vertical pipe shall enter through 45–degree "Y" branches, 60–degree "Y" branches, long–turn "TY" branches, sanitary "T" branches, or other approved or listed fittings or combination of fittings having equivalent sweep. Fittings having more than one branch at the same level shall not be used, unless the fitting is constructed so that the discharge from any one branch cannot readily enter any other branch. However, a double sanitary "T" may be used when the drain line is increased not less than two pipe sizes.

(3) Horizontal to horizontal and vertical to horizontal. Horizontal drainage lines connecting with other horizontal drainage lines or vertical drainage lines connected with horizontal drainage lines shall enter through 45–degree "Y" branches, long–turn "TY" branches, or other approved or listed fittings or combination of fittings having equivalent sweep.

(h) Grade of Horizontal Drainage Piping. Except for fixture connections on the inlet side of the trap, horizontal drainage piping shall be run in practical alignment and have a uniform grade of not less than 1/4 inch per foot toward the mobile home drain outlet. Where it is impractical, due to the structural features or arrangement of any mobile home, to obtain a grade of 1/4 inch per foot, the pipe or piping may have a grade of not less than 1/8 inch per foot, when a full size cleanout is installed at the upper end.

280.611. Vents and Venting.

(a) General. Each plumbing fixture trap shall be protected against siphonage and back pressure, and air circulation shall be ensured throughout all parts of the drainage system by means of vents installed in accordance with the requirements of this section and as otherwise required by this standard.

(b) Materials.

(1) Pipe. Vent piping shall be standard weight steel, wrought iron, brass, copper tube DWV, listed plastic, cast iron or other approved or listed materials.

(2) Fittings. Appropriate fittings shall be used for all changes in direction or size and where pipes are joined. The material and design of vent fittings shall conform to the type of piping used. (i) Fittings for screw pipe shall be cast iron, malleable iron, plastic, or brass, with standard pipe threads. (ii) Fittings for copper tubing shall be cast brass or wrought copper. (iii) Fittings for plastic piping shall be made to approved applicable standards. (iv) Brass adaptor fittings or wrought copper shall be used to join copper tubing to threaded pipe. (v) Listed rectangular tubing may be used for vent piping only providing it has an open cross section at least equal to the circular vent pipe required. Listed transition fittings shall be used.

(c) Size of vent piping.

(1) Main vent. The drain piping for each toilet shall be vented by 1–1/2 inch minimum diameter vent or rectangular vent of venting cross section equivalent to or greater than the venting cross section of a 1–1/2 inch diameter vent, connected to the main drain by one of the following methods:

(i) A 1–1/2 inch diameter (min.) individual vent pipe or equivalent directly connected to the toilet drain within the distance allowed in 280.611(c)(5), for 3–inch trap arms undiminished in size through the roof,

(ii) A 1–1/2 inch diameter (min.) continuous vent, or equivalent, indirectly connected to the toilet drain piping through a 2–inch wet–vented drain that carries the waste of not more than one fixture, or,

(iii) Two or more vented drains when at least one is wet–vented, or 2–inch diameter (minimum), and each drain is separately connected to the main drain. At least one of the drains shall connect downstream from the toilet within the distance allowed in 280.611(c)(5) for 3–inch trap arms.

(2) Individual vents. Each individually vented fixture with a 1–1/2 inch or smaller trap shall be provided with a vent pipe equivalent in area to a 1–1/4 inch nominal pipe size. The main vent, toilet vent and relief vent, and the continuous vent of wet–vented systems shall have an area equivalent to 1–1/2 inch nominal pipe size.

(3) Common Vent. When two fixture traps located within the distance allowed from their vent have their trap arms connected separately at the same level into an approved double fitting, an individual vent pipe may serve as a common vent without any increase in size.

(4) Intersecting Vents. Where two or more vent pipe joined together, no increase in size shall be required; however, the largest vent pipe shall extend full size through the roof.

(5) Distance of fixture trap from vent shall not exceed the values given in the following Table:

MAXIMUM DISTANCE OF FIXTURES FROM VENT TRAP

Size of fixture drain (inches)	*Distance trap to vent*
1–1/4	4 ft. 6 in.
1–1/2	4 ft. 6 in.
2	5 ft.
3	6 ft.

(d) Anti–siphon trap vent. An anti–siphon trap vent may be used as a secondary vent system for plumbing fixtures protected by traps not larger than 1–1/2 inches, when installed in accordance with the manufacturer's recommendations and the following conditions: (i) Not more than two fixtures individually protected by the device shall be drained by a common 1–1/2 inch drain. (ii) Minimum drain size for there or more fixtures individually protected by the device shall be 2 inches. (iii) A primary vent stack must be installed to vent the main drain at the point of heaviest drainage fixture unit loading. (iv) The device shall be installed in a location that permits a free flow of air and shall be at east 6 inches above the top of the trap arm. (v) Materials for the anti–siphon trap vent shall be as follows: cap and housing shall be listed acrylonitrile–butadiene styrene, DWV grade; stem shall be DWV grade nylon or acetal; spring shall be stainless steel wire, type 302; sealing disc shall be neoprene, conforming to ASTM C 564–70, or, silicone rubber, low and high temperature and tear resistant, conforming to F.S. ZZ–R–765B and MIL–L–10547.

(e) Grade and connections.

(1) Horizontal vents. Each vent shall extend vertically from its fixture "T" or point of connection with the waste piping to a point not less than 6 inches above the extreme flood level of the fixture it is venting before offsetting horizontally or being connected with any other vent pipe. Vents for horizontal drains shall connect above the centerline of the drain piping ahead (downstream) of the trap. Where required by structural conditions, vent piping may offset below the rim of the fixture at the maximum angle or height possible.

(f) Vent terminal.

(1) Roof extension. Each vent pipe shall extend through its flashing and terminate vertically, undiminished in size, not less than 2 inches above the roof. Vent openings shall not be less than 3 feet away from any motor–driven air intake that opens into habitable areas.

(2) Flashing. The opening around each vent pipe shall be made watertight by an adequate flashing or flashing material.

(g) Vent caps. Vent caps, if provided, shall be of the removable type (without removing the flashing from the roof). When vent caps are used for roof space ventilation and the caps are identical to vent caps used for the plumbing system, plumbing system caps shall be identified with permanent markings.

280.612. Test and Inspection.

(a) Water system. All water piping in the water distribution system shall be subjected to a pressure test. The test shall be made by subjecting the system to air or water at 100 psi for 15 minutes without loss of pressure.

(b) Drainage and vent system and plumbing fixtures. The waste and vent system shall be tested by one of the three following alternate methods for evidence or indication of leakage:

(1) Water test. Before plumbing fixtures are connected, all of the openings into the piping shall be plugged and the entire piping system sub-

jected to a static water test for 15 minutes by filling it with water to the top of the highest vent opening. There shall be no evidence of leakage.

(2) Air test. After all fixtures have been installed, the traps filled with water, and the remaining openings securely plugged, the entire system shall be subjected to a 2–inch (manometer) water column air pressure test. If the system loses pressure, leaks may be located with smoke pumped into the system, or with soap suds spread on the exterior of the piping (Bubble test).

(3) Flood level test. The mobile home shall be in a level position, all fixtures shall be connected, and the entire system shall be filled with water to the rim of the toilet bowl (tub and shower drains shall be plugged). After all trapped air has been released, the test shall be sustained for not less than 15 minutes without evidence of leaks. Then the system shall be unplugged and emptied. The waste piping above the level of the toilet bowl shall then be tested and show no indication of leakage when the high fixtures are filled with water and emptied simultaneously to obtain the maximum possible flow in the drain piping.

(c) Fixture test. The plumbing fixtures and connections shall be subjected to a flow test by filling them with water and checking for leaks and retarded flow while they are being emptied.

(d) Shower compartments. Shower compartments and receptors shall be tested for leaks prior to being covered by finish material. Each pan shall be filled with water to the top of the dam for not less than 15 minutes.

Subpart H. Heating, Cooling and Fuel Burning Systems

280.701. Scope.

Subpart H of this standard covers the heating, cooling and fuel burning equipment installed within, on, or external to a mobile home.

280.702. Definitions.

(a) The definitions in this subpart apply to Subpart H only.

(1) "Accessible," when applied to a fixture, connection, appliance or equipment, means having access thereto, but which may require the removal of an access panel, door or similar obstruction.

(2) "Air Conditioner Blower Coil System" means a comfort cooling appliance where the condenser section is placed external to the mobile home and evaporator section with circulating blower attached to the mobile home air supply duct system. Provision must be made for a return air system to the evaporator/blower section. Refrigerant connection between the two parts of the system is accomplished by tubing.

(3) "Air Conditioner Split System" means a comfort cooling appliance where the condenser section is placed external to the mobile home and the evaporator section incorporated into the heating appliance or with a separate blower/coil section within the mobile home. Refrigerant connection between the two parts of the system is accomplished by tubing.

(4) "Air Conditioning Condenser Section" means that portion of a refrigerated air cooling or (in the case of a heat pump) heating system which includes the refrigerant pump (compressor) and the external heat exchanger.

(5) "Air Conditioning Evaporator Section" means a heat exchanger used to cool or (in the case of heat pump) heat air for use in comfort cooling (or heating) the living space.

(6) "Air Conditioning Self Contained System" means a comfort cooling appliance combining the condenser section, evaporator and air circulating blower into one unit with connecting ducts for the supply and return air systems.

(7) "Air Duct" means conduits or passageways for conveying air to or from heating, cooling, air conditioning or ventilation equipment, but not including the plenum.

(8) "Automatic Pump (Oil Lifter)" means a pump, not an integral part of the oil–burner appliance, that automatically pumps oil from the supply tank and delivers the oil under a constant head to an oil–burning appliance.

(9) "Btu. British Thermal Units" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

(10) "Btuh" means British thermal units per hour.

(11) "Burner" means a device for the final conveyance of fuel or a mixture of fuel and air to the combustion zone.

(12) "Central Air Conditioning System" means either an air conditioning split system or an external combination heating/cooling system.

(13) "Class O Air Ducts" means ducts of materials and connectors having a fire–hazard classification of zero.

(14) "Class 1 Air Ducts" means ducts of materials and connectors having a flame–spread rating of not over 25 without evidence of continued progressive combustion and smoke–developed rating or not over 50.

(15) "Class 2 Air Ducts" means ducts of materials and connectors having a flame–spread rating of not over 50 without evidence of continued progressive combustion and a smoke–developed rating of not over 50 for the inside surface and not over 100 for the outside surface.

(16) "Clearance" means the distance between the appliance, chimney, vent, chimney or vent connector or plenum and the nearest surface.

(17) "Connector–Gas Appliance" means a flexible or semi–rigid connector listed as conforming to ANSI Standard Z21.24, Metal Connectors for Gas Appliance, used to convey fuel gas, three feet or less in length (six feet or less for gas ranges), between a gas outlet and a gas appliance in the same room with the outlet.

(18) "Energy Efficiency Ratio (EER)" means the ratio of the cooling capacity output of an air conditioner for each unit of power input.

$$\text{EER} = \frac{\text{Capacity (Btuh)}}{\text{Power input (watts)}}$$

(19) "External Combustion Heating/Cooling System" means a comfort conditioning system placed external to the mobile home with connecting ducts to the mobile home for the supply and return air systems.

(20) "Factory–Built Fireplace" means a hearth, fire chamber and chimney assembly composed of listed factory–built components assembled in accordance with the terms of listing to form a complete fireplace.

(21) "Fireplace Stove" means a chimney connected solid fuel–burning stove having part of its fire chamber open to the room.

(22) "Fuel Gas Piping System" means the arrangement of piping, tubing, fittings, connectors, valves and devices designed and intended to supply or control the flow of fuel gas to the appliance(s).

(23) "Fuel Oil Piping System" means the arrangement of piping, tubing, fittings, connectors, valves and devices designed and intended to supply or control the flow of fuel oil to the appliance(s).

(24) "Gas Clothes Dryer" means a device used to dry wet laundry by means of heat derived from the combustion of fuel gases.

(25) "Gas Refrigerator" means a gasburning appliance which is designed to extract heat from a suitable chamber.

(26) "Gas Supply Connection" means the terminal end or connection to which a gas supply connector is attached.

(27) "Gas Supply Connector, Mobile Home" means a listed flexible connector designed for connecting the mobile home to the gas supply source.

(28) "Gas Vents" means factory–built vent piping and vent fittings listed by an approved testing agency, that are assembled and used in accordance with the terms of their listings, for conveying fuel gases to the outside atmosphere. (i) "Type B Gas Vent" means a gas vent for venting gas appliances with draft hoods and other gas appliances listed for use with Type B Gas Vents. (ii) "Type BW Gas Vent" means a gas vent for venting listed gas–fired vented wall furnaces.

(29) "Heat Producing Appliance" means all heating and cooking appliances and fuel burning appliances.

(30) "Heating Appliance" means an appliance for comfort heating or for domestic water heating.

(31) "Liquefied Petroleum Gases." The terms "Liquefied petroleum gases," "LPG" and "LP–Gas" as used in this standard shall mean and include any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them: propane, prophylene, butanes (normal butane or isobutane), and butylenes.

(32) "Plenum" means an air compartment which is part of an air–distributing system, to which one or more ducts or outlets are connected. (i) Furnace supply plenum is a plenum attached directly to, or an integral part of, the air supply outlet of the furnace. (ii) Furnace return plenum is a plenum attached directly to, or an integral part of, the return inlet of the furniture.

(33) "Quick–Disconnect Device" means a hand–operated device which provides a means for connecting and disconnecting a gas supply or connecting gas systems and which is equipped with an automatic means to shut off the gas supply when the device is disconnected.

(34) "Readily Accessible" means direct access without the necessity of removing any panel, door, or similar obstruction.

(35) "Roof Jack" means that portion of a mobile home heater flue or vent assembly, including the cap, insulating means, flashing, and ceiling plate, located in and above the roof of a mobile home.

(36) "Sealed Combustion System Appliance" means an appliance which by its inherent design is constructed so that all air supplied for combustion, the combustion system of the appliance, and all products of combustion are completely isolated from the atmosphere of the space in which it is installed.

(37) "Water Heater" means an appliance for heating water for domestic purposes other than for space heating.

Type	*ANSI*	*UL*	*Other Standards*
Appliances:			
Air conditioners, central cooling		465	
Liquid fuel-burning heating appliances for mobile homes & travel trailers	A 147.1-1969	307(A)-1969	
Electric Air Heater		1025	
Electric Baseboard Heating Equipment		1042	
Electric Central Air-Heating Equipment		1096	
Gas-heating appliances for mobile homes & travel trailers.		307(b)-1965	
Gas clothes dryers	Z21.5.1-1972		
	Z21.5.1a-1973		
	Z21.5.1b-1974		
Commercial gas-fired & electrically-heated hot water generating equipment.			NSF 5-1959
Gas-fired absorption summer air conditioning-appliances	Z21.40.1-1973		
	Z21.40.1b-1974		
Gas-fired gravity & forced air central furnaces	Z21.47-1973		
	Z21.47a-1974		
Gas-fired gravity & fan-type sealed combustion system wall furnaces	Z21.44-1973		
	Z21.44a-1974		
	Z21.44b-1975		
Commercial cooking & warming equipment			NSF 4-1967
Household cooking gas appliances	Z21.1-1972		
	Z21.1a-1974		
Refrigerators using gas fuel	Z21.19-1971		
	Z21.19a-1972		
	Z21.19b-1973		
Automatic storage type water heaters with input less than 75,000 Btu/h.	Z21.10.1-1974		
	Z21.10.1a-1975		
Heating equipment, electric central air		1096	
Heat pumps		559	
Ferrous pipe and fittings:			
Black & hot dipped zinc-coated (galvanized) welded and seamless steel pipe for ordinary uses.			ASTM A120-1972a; WW-P-406D-1973
Electric-resistance welded coiled steel tubing for gas & fuel oil lines.			ASTM A539-1973
Pipe threads	B2.1-1968		
Wrought steel & wrought iron pipe	B36.10-1970		

Nonferrous pipe, tubing, and fittings:			
Seamless copper water tube			ASTM B88-1972
Seamless copper tube for air conditioning & refrigeration field service			ASTM B280-1973
Metal connectors for gas appliances	Z21.24-1973		
Manually operated gas valves	Z21.15-1974		
Trailer standard for coated flexible metal gas connectors for exterior use			IAPMO TSC 9-1972
Wrought seamless copper and copper alloy tube			ASTM B251-1971
Seamless copper pipe, standard size			ASTM B42-1972, WW-P-377D-1962
Miscellaneous:			
Air ducts		181-1972	
Flame tests of flame-resistant fabrics		214-1971	
Tube fittings for flammable and combustible fluids and refrigeration service.		109-1972	
LPG containers and accessories			ASME, DOT
Pigtails, expansion coils, and flexible hose connectors for liquefied petroleum gas.		569-1973	
Roof jacks for trailer coaches		311-1971	
Relief valves and automatic gas shutoff devices for hot water supply systems.	Z21.22-1971		
	Z21.22a-1972		
	Z21.22b-1974		
Automatic gas ignition systems & components	Z21.20-1971		
	Z21.20a-1972		
	Z21.20b-1974		
Automatic valves for gas appliances	Z21.21-1974		
Gas appliance thermostats	Z21.23-1971		
	Z21.23a-1972		
	Z21.23b-1974		
Gas vents	A131.2-1973	441-1973	
Factory-built chimneys	A131.1-1971	103-1971	
Factory-built fireplaces	A131.3-1971	127-1971	CAL
Installation of oil burning equipment	A95.1-1974		NFPA No. 31-1974
Installation of gas appliances, gas piping in buildings	Z223.1-1974		NFPA No. 54-1974
Resident type warm air heating and air conditioning			NFPA No. 90 B-1973
Tests for flammability of plastic materials for parts in devices and appliances.		94-1974	
Storage and handling of liquefied petroleum gas	A106.1-1974		NFPA No. 58-1974

280.703. Minimum Standards.

Heating, cooling and fuel burning appliances and systems in mobile homes shall be free of defects and shall conform to applicable standards in the following able unless otherwise specified in this standard. (See 280.4.)

280.704. Fuel Supply Systems.

(a) LP–Gas system design and service line pressure.

(1) Systems shall be of the vapor–withdrawal type.

(2) Gas, at a pressure not over 14 inches water column (1/2 psi), shall be delivered from the system into the gas supply connection.

(b) LP–Gas Containers.

(1) Maximum capacity. No more than two containers having an individual water capacity of not more than 105 pounds (approximately 45 pounds LP–Gas capacity), shall be installed on or in a compartment of any mobile home.

(2) Construction of containers. Containers shall be constructed and marked in accordance with specifications for LP–Gas Containers of the U.S. Department of Transportation (DOT) or the Rules for Construction of Unfired Pressure Vessels, Section VIII, Division 1, ASME Boiler and Pressure Vessel Code. ASME Containers shall have a design pressure of at least 312.5 psig. (i) Container supply systems shall be arranged for vapor withdrawal only. (ii) Container openings for vapor withdrawal shall be located in the vapor space when the container is in service or shall be provided with a suitable internal withdrawal tube which communicates with the vapor space in or near the highest point in the container when it is mounted in service position, with the vehicle on a level surface. Containers shall be permanently and legibly marked in a conspicuous manner

on the outside to show the correct mounting position and the position of the service outlet connection. The method of mounting in place shall be such as to minimize the possibility of an incorrect positioning of the container.

(3) Location of LP–Gas Containers and Systems. (i) LP–Gas Containers shall not be installed, nor shall provisions be made for installing or storing any LP–Gas container, even temporarily, inside any mobile home except for listed, completely self–contained hand torches, lanterns, or similar equipment with containers having a maximum water capacity of not more than 2–1/2 pounds (approximately one pound LP–Gas capacity). (ii) Containers, control valves, and regulating equipment, when installed, shall be mounted on the "A" frame of the mobile home, or installed in a compartment that is vaportight to the inside of the mobile home and accessible only from the outside. The compartment shall be ventilated at the top and bottom to facilitate diffusion of vapors. The compartment shall be ventilated with two vents having an aggregate area of not less than two percent of the floor area of the compartment and shall open unrestricted to the outside atmosphere. The required vents shall be equally distributed between the floor and ceiling of the compartment. If the lower vent is located in the access door or wall, the bottom edge of the vent shall be flush with the floor level of the compartment. The top vent shall be located in the access door or wall with the bottom of the vent not more than 12 inches below the ceiling level of the compartment. All vents shall have an unrestricted discharge to the outside atmosphere. Access doors or panels of compartments shall not be equipped with locks or require special tools or knowledge to open. (iii) Permanent and removable fuel containers shall be securely mounted to prevent jarring loose, slipping or rotating and the fastenings shall be designed and constructed to withstand static loading in any direction equal to twice the weight of the tank and attachments when filled with fuel, using a safety factor of not less than four based on the ultimate strength of the material to be used.

(4) LP–Gas Container Valves and Accessories. (i) Valves in the assembly of a two–cylinder system shall be arranged so that replacement of containers can be made without shutting off the flow of gas to the appliance(s). This provision is not to be construed as requiring an automatic change–over device. (ii) Shutoff valves on the containers shall be protected as follows, in transit, in storage, and while being moved into final utilization by setting into a recess of the container to prevent possibility of their being struck if container is dropped upon a flat surface, or by ventilated cap or collar, fastened to the container, capable of withstanding a blow from any direction equivalent to that of a 30–pound weight dropped 4 feet. Construction shall be such that the blow will not be transmitted to the valve. (iv) Regulators shall be connected directly to the container shutoff valve outlets or mounted securely by means of a support bracket and connected to the container shutoff valve or valves with listed high pressure connections. If the container is permanently mounted the connector shall be as required above or with a listed semi–rigid tubing connector.

(5) LP–Gas Safety Devices. (i) DOT containers shall be provided with safety relief devices as required by the regulations of the U.S. Department of Transportation. ASME containers shall be provided with relief valves in accordance with Subsection 221 of the Standard for the Storage and Handling of Liquefied Petroleum Gases (NFPA NO 58–1974; ANSI Z106.1–1974). Safety relief valves shall have direct communication with the vapor space of the vessel. (ii) The delivery side of the gas pressure regulator shall be equipped with a safety relief device set to discharge at a pressure not less than two times and not more than three times the delivery pressure of the regulator. (iii) Systems mounted on the "A" frame assembly shall be so located that the discharge from the safety relief devices shall be into the open air and not less than three feet horizontally from any opening into the mobile home below the level of such discharge. (iv) Safety relief valves located with liquefied petroleum gas container compartments may be less than three feet from openings provided the bottom vent of the compartment is at the same level or lower than the bottom of any opening into the vehicle, or the compartment is not located on the same wall plane as the opening(s) and is at least two feet horizontally from such openings.

(6) LP–Gas System Enclosure and Mounting. (i) Housings and enclosures shall be designed to provide proper ventilation at least equivalent to that specified in 280.704(b)(3)(ii). (ii) Doors, hoods, domes, or portions of housings and enclosures required to be removed or opened for replacement of containers shall incorporate means for clamping them firmly in place and preventing them from working loose during transit. (iii) Provisions shall be incorporated in the assembly to hold the containers firmly in position and prevent their movement during transit. (iv) Containers shall be mounted on a substantial support or a base secured firmly to the vehicle chassis. Neither the container nor its support shall extend below the mobile home frame.

(c) Oil Tanks.

(1) Installation. Oil tanks and listed automatic pumps (oil lifters) installed for gravity flow of oil to heating equipment shall be installed so that the top of the tank is no higher than 8 feet above the appliance oil control and the bottom of the tank is not less than 18 inches above the appliance oil control and the bottom of the tank is not less than 18 inches above the appliance oil control.

(2) Auxiliary Oil Storage Tank. Oil supply tanks affixed to a mobile home shall be so located as to require filling and draining from the outside and shall be in a place readily available for inspection. If the fuel supply tank is located in a compartment of a mobile home, the compartment shall be ventilated at the bottom to permit diffusion of vapors and shall be insulated from the structural members of the body. Tanks so installed shall be provided with an outside fill and vent pipe and an approved liquid level gage.

(3) Shutoff Valve. A readily accessible, approved manual shutoff valve shall be installed at the outlet of an oil supply tank. The valve shall be installed to close against the supply.

(4) Fuel Oil Filters. All oil tanks shall be equipped with an approved oil filter or strainer located downstream from the tank shutoff valve. The fuel oil filter or strainer shall contain a sump with a drain for the entrapment of water.

280.705. Gas Piping Systems.

(a) General. The requirements of this Section shall govern the installation of all fuel gas piping attached to any mobile home. The gas piping supply system shall be designed for a pressure not exceeding 14 inch water column (1/2 psi) and not less than 7 inch water column (1/4 psi). The manufacturer shall indicate in his written installation instructions the design pressure limitations for safe and effective operation of the gas piping system. None of the requirements listed in this section shall apply to the piping supplied as a part of an appliance. All exterior openings around piping, ducts, plenums or vents shall be sealed to resist the entrance of rodents.

(b) Materials. All materials used for the installation, extension, alteration, or repair of any gas piping system shall be new and free from defects or internal obstructions. It shall not be permissible to repair defects in gas piping or fittings. Inferior or defective materials shall be removed and replaced with acceptable material. The system shall be made of materials having a melting point of not less than 1,4505°F, except as provided in 280.705(e). They shall consist of one or more of the materials described in 280.705(b)(1) through (4).

(1) Steel or wrought–iron pipe shall comply with ANSI Standard B36.10–1970 for Wrought–Steel and Wrought–Iron Pipe. Threaded brass pipe in iron pipe sizes may be used. Threaded brass pipe shall comply with Standard Sizes and Specifications for Seamless Red Brass Pipe (ASTM B43–66).

(2) Fittings for gas piping shall be wrought iron, malleable iron, steel, or brass (containing not more than 75 percent copper).

(3) Copper tubing shall be annealed type, Grade K or L, conforming to the Specifications for Seamless Copper Water Tube (ASTM B88–72), or shall comply with the Specifications for Seamless Copper Tube for Air

Conditioning and Refrigeration Field Service, ASTM B280–73. When used on systems designed for natural gas, such tubing shall be internally tinned.

(4) Steel tubing shall have a minimum wall thickness of 0.032 inch for tubing of 1/2 inch diameter and smaller and 0.049 inch for diameters 1/2 inch and larger. Steel tubing shall be constructed in accordance with ASTM Specification for Electric–Resistance–Welded Coiled Steel Tubing for Gas and Fuel Oil Lines (ASTM A539–73), and shall be externally corrosion protected.

(c) Piping design. Each mobile home requiring fuel gas for any purpose shall be equipped with a fuel gas piping system that is designed for LP–Gas only or with a natural gas piping system acceptable for LP–Gas.

(1) Where fuel gas piping is to be installed in both portions of an expandable or multiple unit mobile home, the design and construction of the crossover shall be as follows: (i) There shall be only one point of crossover which shall be readily accessible from the exterior of the mobile home. (ii) The connector between units shall be a listed type for exterior use, sized in accordance with 280.705(d). (ii) The connection shall be made by a listed "quick disconnect" device which shall be designed to provide a positive seal of the supply side of the gas system when such device is separated. (iv) The flexible connector and "quick disconnect" device shall be provided with protection from mechanical and impact damage and located to minimize the possibility of tampering. (v) Suitable protective coverings for the "quick disconnect" device, when separated, shall be permanently attached to the device or flexible connector. (vi) A 3–inch by 1–3/4 inch minimum size tag made of etched, metal–stamped or embossed brass, stainless steel, anodized or alclade aluminum not less than 0.020 inch thick or other approved material (e.g., 0.005 inch plastic laminates) shall be permanently attached on the exterior wall adjacent to the access to the "quick disconnect" device. Each tag shall be legibly inscribed with the following information using letters no smaller than 1/4 inch high:

DO NOT USE TOOLS TO SEPARATE THE "QUICK–DISCONNECT" DEVICE.

(d) Gas Pipe Sizing. Gas piping systems shall be sized so that the pressure drop to any appliance inlet connection from any gas supply connection, when all appliances are in operation at maximum capacity, is not more than 0.5 inch water column as determined on the basis of test, or in accordance with the following Table. When determining gas pipe sizing in the table, gas shall be assumed to have a specific gravity of 0.65 and rated at 1000 B.T.U. per cubic foot. The natural gas supply connection(s) shall not be less than the size of the gas piping but shall not be smaller than 3/4 inch nominal pipe size.

(e) Joints for Gas Pipe. All pipe joints in the piping system, unless welded or brazed, shall be threaded joints that comply with ANSI Standard Pipe Threads (Except Dryseal) D2–1–1968. Right and left nipples or couplings shall not be used. Unions, if used, shall be of ground joint type. The material used for welding or breaking pipe connections shall have a melting temperature in excess of 1,000° F.

(f) Joints for Tubing.

(1) Tubing joints shall be made with either a single or a double flare of 45 degrees in accordance with S.A.E. Standard J533A or with other listed vibration–resistant fittings, or joints may be brazed with material having a melting point exceeding 1,000° F. Metallic ball sleeve compression–type tubing fittings shall not be used.

Part I

Maximum Capacity of Different Sizes of Pipe and Tubing in Thousands of BTUs per Hour of Natural Gas for Gas Pressure of 0.5 Psig or Less and a Maximum Pressure Drop of 1/2 Inch Water Column

	Iron Pipe Sizes *Length in Feet*											*Tubing* *Length in Feet*									
I.D.	*10*	*20*	*30*	*40*	*50*	*60*	*70*	*80*	*90*	*100*	*O.D.*	*10*	*20*	*30*	*40*	*50*	*60*	*70*	*80*	*90*	*100*
¼".....	43	29	24	20	18	16	15	14	13	12	⅜"	27	18	15	13	11	10	9	9	8	8
⅜".....	95	65	52	45	40	36	33	31	29	27	½"	56	38	31	26	23	21	19	18	17	16
½".....	175	120	97	82	73	66	61	57	53	50	⅝"	113	78	62	53	47	43	39	37	34	33
¾".....	360	250	200	170	151	138	125	118	110	103	¾"	197	136	109	93	83	75	69	64	60	57
1"	680	465	375	320	285	260	240	220	215	195	⅞"	280	193	155	132	117	106	98	91	85	81

Part II

Maximum Capacity of Different Sizes of Pipe and Tubing in Thousands of BTUs per Hour of Undiluted Liquefied Petroleum Gas

Based on a Maximum Pressure Drop of 1/2 Inch Water Column

	Iron Pipe *Length in Feet*											*Tubing* *Length in Feet*									
I.D.	*10*	*20*	*30*	*40*	*50*	*60*	*70*	*80*	*90*	*100*	*O.D.*	*10*	*20*	*30*	*40*	*50*	*60*	*70*	*80*	*90*	*100*
¼".....	67	46	37	31	28	25	23	21	20	19	⅜"	39	26	21	19	–	–	–	–	–	–
⅜".....	147	101	81	70	62	56	51	48	45	42	½"	92	62	50	41	37	35	31	29	27	26
½".....	275	189	152	129	114	103	96	89	83	78	⅝"	199	131	107	90	79	72	67	62	59	55
¾".....	567	393	315	267	237	217	196	185	173	162	¾"	329	216	181	145	131	121	112	104	95	90
1"	1071	732	590	504	448	409	378	346	322	307	⅞"	501	346	277	233	198	187	164	155	146	138

LP-Gas System

This gas piping system is designed for use of liquefied petroleum gas only.

DO NOT CONNECT NATURAL GAS TO THIS SYSTEM.

CONTAINER SHUTOFF VALVES SHALL BE CLOSED DURING TRANSIT.

When connecting to lot outlet, use a listed gas supply connector, for mobile homes, rated at

☐ 100,000 Btuh

or more.

☐ 250,000 Btuh

Before turning on gas, make certain all gas connections have been made tight, all appliance valves are turned off, and any unconnected outlets are capped.

After turning on gas, test gas piping and connections to appliances for leakage with soapy water or bubble solution, and light all pilots.

Combination LP-Gas and Natural Gas System

This gas piping system is designed for use of either liquefied petroleum gas or natural gas.

NOTICE: BEFORE TURNING ON GAS BE CERTAIN APPLIANCES ARE DESIGNED FOR THE GAS CONNECTED AND ARE EQUIPPED WITH CORRECT ORIFICES. SECURELY CAP THIS INLET WHEN NOT CONNECTED FOR USE.

When connecting to lot outlet, use a listed gas supply connector, for mobile homes. rated at

☐ 100,000 Btuh

or more.

☐ 250,000 Btuh

Before turning on gas, make certain all gas connections have been made tight, all appliance valves are turned off, and any unconnected outlets are capped.

After turning on gas, test gas piping and connections to appliances for leakage with soapy water or bubble solution, and light all pilots.

(2) Steel tubing joints shall be made with a double–flare in accordance with SAE Standard J 533A.

(g) Pipe Joint Compound. Screw joints shall be made up tight with listed pipe joint compound, insoluble in liquefied petroleum gas, and shall be applied to the male threads only.

(h) Concealed Tubing. Tubing shall not be run inside walls, floors, partitions, or roofs. Where tubing passes through walls, floors, partitions, roofs, or similar installations, such tubing shall be protected by the use of weather resistant grommets that shall snugly fit both the tubing and the hole through which the tubing passes.

(i) Concealed Joints. Piping or tubing joints shall not be located in any floor, wall partition, or similar concealed construction space.

(j) Location of gas supply connection.

(1) For LP–Gas–only systems the supply connection shall be located at the "A" frame, container recess, or in the rear half of the total length of the mobile home and within 24 inches from the left (road) side wall, and should be as close practicable to a point 30 feet form the front of the mobile home.

(2) For combination LP–Gas and natural gas systems, the natural gas supply connection shall be located under the rear half of the total length of the mobile home and within 24 inches of the left (road) side wall and be located as close as practicable to a point 30 feet form the front of the mobile home. The natural gas supply connection shall not be located beneath any exit door. An additional connection, if used, shall be located at the "A" frame. The system shall be sized to provide adequate capacity from either supply connection for natural gas.

(k) Identification of gas supply connections. Each mobile home shall have permanently affixed to the exterior skin at or near each gas supply connection or the end of the pipe, a tag of 3 inches by 1–3/4 inches minimum size, made of etched, metal–stamped or embossed brass, stainless steel, anodized or alclade aluminum not less than 0.020 inch thick, or other approved material (e.g., 0.005 inch plastic laminates), which reads (as appropriate) in accordance with one of the following label designs depending upon the fuel used. The connector capacity indicated on this tag shall be equal to or greater than the total Btuh rating of all intended gas appliances.

(l) Gas supply connectors.

(1) LP–Gas. A listed LP–Gas flexible connector conforming to the UL Standard for Pigtails, Expansion Coils and Flexible Hose Connectors for LP–Gas (UL 569–1973) or equal shall be supplied when the fuel gas piping system is designed for the use of LP–Gas and cylinder(s) and regulator(s) are supplied.

(2) Appliance connections. All gas burning appliances shall be connected to the fuel piping. Materials as provided in 280.705(b) or listed appliance connectors shall be used. Listed appliance connectors when used shall not run through walls, floors, ceilings or partitions. Connectors

of aluminum shall not be used outdoors. A mobile home containing an LPG or combination LP–natural–gas–system may be provided with a gas outlet to supply exterior appliances when installed in accordance with the following: (i) No portion of the completed installation shall project beyond the wall of the mobile home. (ii) The outlet shall be provided with an approved "quick–disconnect" device, which shall be designed to provide a positive seal on the supply side of the gas system when the appliance is disconnected. A shutoff valve shall be installed immediately upstream of the quick–disconnect device. The complete device shall be provided as part of the original installation. (iii) protective caps or plugs for the "quick disconnect" device, when disconnected, shall be permanently attached to the mobile home adjacent to the device. (iv) A tag shall be permanently attached to the outside of the exterior wall of the mobile home as close as possible to the gas supply connection. The tag shall indicate the type of gas and the Btuh capacity of the outlet and shall be legibly inscribed as follows:

THIS OUTLET IS DESIGNED FOR USE WITH GAS PORTABLE APPLIANCES WHOSE TOTAL INPUT DO NOT EXCEED _____ BTUH. REPLACE PROTECTIVE COVERING OVER CONNECTOR WHEN NOT IN USE

(3) Valves. A shutoff valve shall be installed in the fuel piping at each gas appliance inside the mobile home structure, upstream of the union or connector in addition to any valve on the appliance and so arranged to be accessible to permit servicing of the appliance and removal of its components, and for shut–off in case of emergency. The shutoff valve shall be located within 6 feet of a cooking appliance and within 3 feet of any other appliance. A shutoff valve may serve more than one *appliance* if located as required above. shutoff valves used in connection with gas piping shall be of a type designed and listed for use in LP–Gas.

(4) Gas Piping system Openings. All openings in the gas piping system shall be closed gas–tight with threaded pipe plugs or pipe caps.

(5) Electrical Ground. Gas piping shall not be used for an electrical ground.

(6) Couplings. Pipe couplings and unions shall be used to join sections of threaded piping. Right and left nipples or couplings shall not be used.

(7) Hangers and Supports. All gas piping shall be adequately supported by galvanized or equivalently protected metal straps or hangers at intervals of not more than 4 feet, except where adequate support and protection is provided by structural members. Solid–iron–pipe gas supply connection(s) shall be rigidly anchored to a structural member within 6 inches of the supply connection(s).

(8) Testing for Leakage. (i) Before appliances are connected, piping systems shall stand a pressure of at least six inches mercury or three PSI gage for a period of not less than ten minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or slope gage calibrated so as to be read in increments of not greater than one–tenth pound, or an equivalent device. The source of normal operating pressure shall be isolated before the pressure tests are made. Before a test is begun, the temperature of the ambient air and of the piping shall be approximately the same, and constant air temperature be maintained throughout the test. (ii) After appliances are connected, the piping system shall be pressurized to not less than 10 inches nor more than 14 inches water column and the appliance connections tested for leakage with soapy water or bubble solution.

280.706. Oil Piping Systems.

(a) General. The requirements of this section shall govern the installation of all liquid fuel piping attached to any mobile home. None of the requirements listed in this Section shall apply to the piping in the appliance(s).

(b) Materials. All materials used for the installation extension, alteration, or repair, of any oil piping systems shall be new and free from defects or internal obstructions. The system shall be made of materials having a melting point of not less than 1,450°F, except as provided in 280.706(d) and (e). They shall consist of one or more of the materials described in 2890.706(b)(1) through (4). (1) Steel or wrought–iron pipe shall comply with American National Standard For Wrought–Steel or Wrought–Iron Pipe, R36.10–1970. Threaded copper or brass pipe in iron pipe sizes may be used. (2) Fittings for oil piping shall be wrought iron, malleable iron, steel, or brass (containing not more than 75 percent copper). (3) Copper tubing shall be annealed type, Grade K or L conforming to the Specifications for Seamless Copper Water Tube (ASTM B88–72), or shall comply with the specifications for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service, ASTM B280–73. (4) Steel tubing shall have a minimum wall thickness of 0.032 inch for diameters up to 1/2–inch and 0.049 inch for diameters 1/2–inch and larger. Steel tubing shall be constructed in accordance with the Specification for Electric–Resistance Welded Coiled Steel Tubing for Gas and Fuel Oil Lines (ASTM A539–73) and shall be externally corrosion protected.

(c) Size of Oil Piping. The minimum size of all fuel tank piping connecting outside tanks to the appliance shall be no smaller than 3/80–inch OD copper tubing or 1/4–inch IPS. If No. 1 fuel oil is used with a listed automatic pump (fuel lifter), copper tubing shall be sized as specified by the pump manufacturer.

(d) Joints for Oil Piping. All pipe joints in the piping system, unless welded or brazed, shall be threaded joints which comply with American National Standard for Pipe Threads (Except Dryseal), B2.1–1968. The material used for brazing pipe connections shall have a melting temperature in excess of 1,000° F.

(e) Joints for Tubing. Joints in tubing shall be made with either a single or double flare of the proper degree, as recommended by the tubing manufacturer, by means of listed tubing fittings, or brazed with materials having a melting point in excess of 1,000° F.

(f) Pipe joint compound. Threaded joints shall be made up tight with listed pipe joint compound which shall be applied to the male threads only.

(g) Couplings. Pipe couplings and unions shall be used to join sections of threaded pipe. Right and left nipples or couplings shall not be used.

(h) Grade of piping. Fuel oil piping installed in conjunction with gravity feed systems to oil heating equipment shall slope in a gradual rise upward from a central location to both the oil tank and the appliance in order to eliminate air locks.

(i) Strap hangers. All oil piping shall be adequately supported by galvanized or equivalently protected metal straps or hangers at intervals of not more than 4 feet, except where adequate support and protection is provided by structural members. Solid–iron–pipe oil supply connection(s) shall be rigidly anchored to a structural member within 6 inches of the supply connection(s).

(j) Testing for leakage. Before setting the system in operation, tank installations and piping shall be checked for oil leaks with fuel oil of the same grade that will be burned in the appliance. No other material shall be used for testing fuel oil tanks and piping. Tanks shall be filled to maximum capacity for the final check for oil leakage.

280.707. Heat Producing Appliances.

(a) Heat–producing appliances and vents, roof jacks and chimneys necessary for their installation in mobile homes shall be listed or certified by a nationally recognized testing agency for use in mobile homes.

(1) A mobile home shall be provided with a comfort heating system. (i) When a mobile home is manufactured to contain a heating appliance, the heating appliance shall be installed by the manufacturer of the mobile home in compliance with applicable sections of this subpart. (ii) When a mobile home is manufactured for field application of an external heating or combination heating/cooling appliance, preparation of the mobile home for this external application shall comply with the applicable sections of this part.

(2) After the effective date specified herein gas and oil burning comfort heating appliances shall have a flue loss of not more than that specified below, and a thermal efficiency of not less than that specified in nationally recognized standards. (See 280.703)

Effective date:	*Maximum allowable flue loss*
Jan. 1, 1977	25 percent
Jan. 1, 1976	30 percent

(b) Fuel–burning heat–producing appliances and refrigeration appliances, except ranges and ovens, shall be of the vented type and vented to the outside.

(c) Fuel–burning appliances shall not be converted from one fuel to another fuel unless converted in accordance with the terms of their listing and the appliance manufacturer's instructions.

(d) Performance Efficiency.

(1) All automatic electric storage water heats shall have a standby loss not exceeding 443 watts/meter^2 (4 watts/Ft^2) of tank surface area effective January 1, 1977. The method of test for standby loss shall be as described in Section 4.3.1 of ANSI C72.1–72.

(2) All gas and oil–fired automatic storage water heaters shall have a recovery efficiency, E, and a standby loss, S, as described below, effective January 1, 1977. The method of test of E, and S shall be as described in Section 2.7 of ANSI Z21.10.1–1974, except that for oil–fired units, CF=1.0, Q=total gallons of oil consumed and H=total heating value of oil in Btu/gallon.

Storage capacity in gallons	*Recovery efficiency*	*Standby Loss*
Less than 25	At least 75 percent	Not more than 7.5 percent
25 up to 35	do	Not more than 7 percent
35 or more	do	Not more than 8 percent

(e) Each space heating, cooling or combination heating and cooling system shall be provided with at least one readily adjustable automatic control for regulation of living space temperature. The control shall be placed a minimum of 3 feet from the vertical edge of the appliance compartment door. It shall be located on an exterior wall or on a wall separating the appliance compartment from a habitable room.

280.708. Clothes Dryers.

(a) Clothes dryers.

(1) Clothes dryers shall be exhausted to the outside by a moisture–lint exhaust duct and termination fitting. Such termination fittings for gas dryers shall be listed or certified as components of the dryer.

(2) A clothes dryer moisture–lint exhaust duct shall not be connected to any other duct, vent or chimney.

(3) The exhaust duct shall not terminate beneath the mobile home.

(4) Moisture–lint exhaust ducts shall not be connected with sheet metal screws or other fastening devices which extend into the interior of the duct.

(b) Gas clothes dryer. A mobile home may be provided with "stubbed in" equipment at the factory to supply a gas clothes dryer for future installation by the owner provided it complies with the following provisions:

(1) The "stubbed in" gas outlet shall be provided with a shutoff valve, the outlet of which is closed by threaded pipe plug or cap.

(2) The "stubbed in" gas outlet shall be permanently labeled to identify it for use only as the supply connection for a gas clothes dryer.

(3) A moisture–lint exhaust duct system shall be roughed in by the manufacturer at the time of original installation. The moisture–lint exhaust system shall comply with provisions of 280.708(a)(1) through (4).

(c) Electric clothes dryers. Electric clothes dryers shall be exhausted to the outside in accordance with the appliance manufacturer's instructions. When a receptacle is installed to supply an electric clothes dryer for future installation by the owner, the moisture–lint exhaust system shall comply with provisions of 280.708(a)(1) through (4).

280.709. Installation of Appliances.

(a) The installation of each appliance shall conform to the terms of its listing and the manufacturer's instructions. The installer shall leave the manufacturer's instructions attached to the appliance. Every appliance shall be secured in place to avoid displacement. For the purpose of servicing and replacement, each appliance shall be both accessible and removable.

(b) Heat–appliances shall be so located that no doors, drapes, or other such material can be placed or/swing closer to the front of the appliance than the clearances specified on the labeled appliances.

(c) Clearances between heat–producing appliances and adjacent surfaces shall not be less than specified in the terms of their listing. Clearance spaces shall be framed in or guarded to prevent creation of storage space within the clearance specified.

(d) All fuel–burning appliances, except ranges, ovens, illuminating appliances, clothes dryers, solid fuel–burning fireplaces and solid fuel–burning fireplace stoves, shall be installed to provide for the complete separation of the combustion system from the interior atmosphere of the mobile home. Combustion air inlets and flue gas outlets shall be listed or certified as components of the appliance. The required separation may be obtained by:

(1) The installation of direct vent system (sealed combustion system) appliances, or

(2) The installation of appliances within enclosures so as to separate the appliance combustion system and venting system from the interior atmosphere of the mobile home. There shall be any door, removable access panel, or other opening into the enclosure from the inside of the mobile home. Any opening for ducts, piping, wiring, etc., shall be sealed.

(e) A forced air appliance and its return–air system shall be designed and installed so that negative pressure created by the air–circulating fan cannot affect its or another appliance's combustion air supply or act to mix products of combustion with circulation air.

(1) The air circulating fan of a furnace installed in an enclosure with another fuel–burning appliance shall be operable only when any door or panel covering an opening in the furnace fan compartment or in a return air plenum or duct is in the closed position. This does not apply if both appliances are direct vent system (sealed combustion system) appliances.

(2) If a warm air appliance is installed within an enclosure to conform to 280.709(d)(2), each warm–air outlet and each return air inlet shall extend to the exterior of the enclosure. Ducts, if used for that purpose, shall not have any opening within the enclosure and shall terminate at a location exterior to the enclosure.

(3) Cooling coils installed as a portion of, or in connection with, any forced–air furnace shall be installed on the downstream side unless the furnace is specially otherwise listed.

(4) An air conditioner evaporator section shall not be located in the air discharge duct or plenum of any forced–air furnace unless the mobile home manufacturer has complied with certification required in 280.511.

(5) If a cooling coil is installed with a forced–air furnace, the coil shall be installed in accordance with its listing. When a furnace–coil unit has a limited listing, the installation must be in accordance with that listing.

(6) When an external heating appliance or combination cooling/heating appliance is to be applied to a mobile home, the manufacturer shall make provision for proper location of the connection to the mobile home supply system and return air system of the external ducts connected to the appliance.

(7) The installation of a self contained air conditioner comfort cooling appliance shall meet the following requirements: (i) The installation on a duct common with an installed heating appliance shall require the installation of an automatic damper or other means to prevent the cooled air from passing through the heating appliance unless the heating appliance is certified or listed for such application and the supply system is intended for such an application. (ii) The installation shall prevent the flow of heated air into the external cooling appliance and its connecting ducts to the mobile home supply and return air system during the operation of the heating appliance installed in the mobile home. (iii) The installation shall prevent simultaneous operation of the heating and cooling appliances.

(f) Vertical clearance above cooking top. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches. (see 280.204)

(g) Solid fuel–burning factory–built fireplaces and fireplace stoves listed for use in mobile homes may be installed in mobile homes provided they and their installation conform to the following paragraphs. A fireplace or fireplace stove shall not be considered as a heating facility for determining compliance with Subpart F.

(1) A solid fuel–burning fireplace or fireplace stove shall be equipped with integral door(s) or shutter(s) designed to close the fireplace or fireplace stove fire chamber opening and shall include complete means for venting through the roof, a combustion air inlet, a hearth extension, and means to securely attach the fireplace or the fireplace stove to the mobile home structure. The installation shall conform to the following paragraphs (g)(1) (i) to (vii) inclusive: (i) A listed factory–built chimney designed to be attached directly to the fireplace or fireplace stove shall be used. The listed factory built chimney shall be equipped with and contain as part of its listing a termination device(s) and a spark arrester(s). (ii) A fireplace or fireplace stove, air intake assembly, hearth extension and the chimney shall be installed in accordance with the terms of their listings and their manufacturer's instructions. (iii) The combustion air inlet shall conduct the air directly into the fire chamber and shall be designed to prevent material from the hearth dropping onto the area beneath the mobile home. (iv) The fireplace or fireplace stove shall not be installed in a sleeping room. (v) Hearth extension shall be of noncombustible material not less than 3/8–inch thick. The hearth shall extend at least 16 inches in front of and at least 8 inches beyond each side of the fireplace or fireplace stove opening. Furthermore the hearth shall extend over the entire surface beneath a fireplace stove and beneath an elevated or overhanging fireplace. (vi) The label on each solid fuel–burning fireplace and solid fuel–burning fireplace stove shall include the following wording: For use with solid fuel only. (vii) The chimney shall extend at least three feet above the part of the roof through which it passes and at least two feet above the highest elevation of any part of the mobile home within 10 feet of the chimney. Portions of the chimney and termination that exceed an elevation of 13–1/2 ft. above ground level may be designed to be removed for transporting the mobile home.

280.710. Venting, Ventilation and Combustion Air.

(a) The venting as required by 280.707(b) shall be accomplished by one or more of the methods given in (1) and (2) below:

(1) An integral vent system listed or certified as part of the appliance.

(2) A venting system consisting entirely of listed components, including roof jack, installed in accordance with the terms of the appliance listing and the appliance manufacturer's instructions.

(b) Venting and combustion air systems shall be installed in accordance with the following:

(1) Component shall be securely assembled and properly aligned using the method shown in the appliance manufacturer's instructions.

(2) Draft hood connectors shall be firmly attached to draft hood outlets or flue collars by sheet metal screws or by equivalent effective mechanical fasteners.

(3) Every joint of a vent, vent connector, exhaust duct and combustion air intake shall be secure and in alignment.

(c) Venting systems shall not terminate underneath a mobile home.

(d) Venting system terminations shall be not less than three feet from any motor–driven air intake discharging into habitable areas.

(e) The area in which cooking appliances are located shall be ventilated by a metal duct which may be single wall, not less than 12.5 square inches in cross–sectional area (minimum dimension shall be two inches) located above the appliance(s) and terminating outside the mobile home, or by listed mechanical ventilating equipment discharging outside the home, that is installed in accordance with the terms of listing and the manufacturer's instructions. Gravity or mechanical ventilation shall be installed within a horizontal distance of not more than ten feet from the vertical front of the appliance(s).

(f) Mechanical ventilation which exhausts directly to the outside atmosphere from the living space of a home shall be equipped with an automatic or manual damper. Operating controls shall be provided such that mechanical ventilation can be separately operated without directly energizing other energy consuming devices.

280.711. Instructions.

Operating instructions shall be provided with each appliance. These instructions shall include directions and information covering the proper use and efficient operation of the appliance and its proper maintenance.

280.712. Marking.

(a) Information on clearances, input rating, lighting and shutdown shall be attached to the appliances with the same permanence as the nameplate, and so located that it is easily readable when the appliance is properly installed or shutdown for transporting of mobile home.

(b) Each fuel–burning appliance shall bear permanent marking designating the type(s) of fuel for which it is listed.

280.713. Accessibility.

Every appliance shall be accessible for inspection, service, repair, and replacement without removing permanent construction. Sufficient room shall be available to enable the operator to observe the burner, control, and ignition means while starting the appliance.

280.714. Appliances, Cooling.

(a) Every air conditioning unit or a combination air conditioning and heating unit shall be listed or certified by a nationally recognized testing agency for the application for which the unit is intended and installed in accordance with the terms of its listing.

(1) Mechanical air conditioners shall be rated in accordance with the Standard for Unitary Air–Conditioning Equipment (ARI Standard 210–74) and certified by ARI or other nationally recognized testing agency capable of providing follow–up service. (i) Electric motor–driven unitary cooling systems with rated capacity less than 65,000 Btu/hr. manufactured after the times indicated in the following table, when rated at ARI Standard rating conditions as listed in ARI Standard 210–74, shall show energy efficiency ratio (EER) values not less than as shown below:

Date:	*Energy efficiency ratio*
Jan. 1, 1977	6.5
Jan. 1, 1980	7.2

(ii) Direct refrigerating systems serving any air conditioning or comfort–cooling system installed that ranks no lower than Group 5 in the Underwriters' Laboratories, Inc. "Classification of Comparative Life Hazard of Various Chemicals. (iii) Heat pumps shall be listed in the ARI Directory of Certified Unitary Heat Pumps or certified to comply with all the requirements of the Standard for Unitary Heat Pumps 240–74. Electric motor–driven vapor compression heat pumps with supplemental electrical resistance heat shall be sized to provide by compression at least 60 percent of the calculated annual heating requirement for the mobile home being served. A control shall be provided and set to prevent operation of supplemental electrical resistance heat at outdoor temperatures above 40° F. except for defrost operation. (iv) Electric motor–driven vapor compression heat pumps with supplemental electric resistance heat conforming to ARI Standard 240–74 manufactured after the dates indicated in the table shall show coefficient of performance ratios not less than shown below:

COP

Date	*Outdoor air temperature* 45°F	20°F	0°F
Jan. 1, 1977	2.2	1.4	Permit shutoff.
Jan. 1, 1980	2.5	1.7	1.0.

(2) Gas fired absorption air conditioners shall be listed or certified in accordance with ANSI Standard Z21.40.1–1973 and certified by AGA or another nationally recognized testing agency capable of providing follow–up service.

(3) Direct refrigerating systems servicing any air conditioning or comfort–cooling system installed in a mobile home shall employ a type of refrigerant that ranks no lower than Group 5 in the Underwriters' Laborato-

ries, Inc. "Classification of Comparative Life Hazard of Various Chemicals."

(b) Installation and instructions.

(1) The installation of each appliance shall conform to the terms of its listing as specified on the appliance and in the manufacturer's instructions. The installer shall include the manufacturer's installation instructions in the mobile home. Appliances shall be secured in place to avoid displacement and movement from vibration and road shock.

(2) Operating instructions shall be provided with the appliance.

(c) Fuel–burning air conditioners shall also comply with 280.707.

(d) The appliance rating plate shall be so located that it is easily readable when the appliance is properly installed.

(e) Every installed appliance shall be accessible for inspection, service, repair and replacement without removing permanent construction.

280.715. Circulating Air System.

(a) Supply system.

(1) Supply ducts and any dampers contained therein shall be made from galvanized steel, tinplated steel, or aluminum, or shall be listed Class 0, Class 1, or Class 2 air ducts. Class 2 air ducts shall be located at least 3 feet from the furnace bonnet or plenum. A duct system integral with the structure shall be of durable construction that can be demonstrated to be equally resistant to fire and deterioration. Ducts constructed from sheet metal shall be in accordance with the following table:

Minimum metal thickness for ducts[1]

Duct type	*Diameter 14 in or less*	*Width over 14 in*
Round	0.013	0.016
Enclosed rectangular	.01	.016
Exposed rectangular	.016	.019

[1]When "nominal" thickness are specified, 0.003 in. shall be added to these "minimum" metal thicknesses.

(2) Sizing of ducts for heating. (i) Ducts shall be so designed that when a labelled forced–air furnace is installed and operated continuously at its normal heating air circulating rate in the mobile home, with all registers in the full open position, the static pressure measured in the casing shall not exceed 90% of that shown on the label of the appliance. For upflow furnaces the static pressure shall be taken in the duct plenum. For external heating or combination heating/cooling appliances the static pressure shall be taken at the point used by the agency listing or certifying the appliance. (ii) When an evaporator–coil specifically designed for the particular furnace is installed between the furnace and the duct plenum, the total static pressure shall be measured downstream of the coil in accordance with the appliance label and shall not exceed 90 percent of that shown on the label of the appliance. (iii) When any other listed air–cooler coil is installed between the furnace and the duct plenum, the total static pressure shall be measured between the furnace and the coil and it shall not exceed 90 percent of that shown on the label of the furnace. (iv) The minimum dimension of any branch duct shall be at least 1–1/2 inches, and of any main ducts, 2–1/2 inches.

(3) Sizing of ducts for air cooling. (i) The mobile home manufacturer shall certify the capacity of the air cooling supply duct system for the maximum allowable output of ARI certified central air conditioning systems. The certification shall be at operating static pressure of 0.3 inches of water or greater (see 280.511). (ii) The refrigerated air cooling supply duct system including registers must be capable of handling at least 300 CFM per 10,000 btuh with a static pressure no greater than 0.3 inches of water when measured at room temperature. In the case of application of external self–contained comfort cooling appliances or the cooling mode of combination heating/cooling appliances, either the external ducts between the appliance and the mobile home supply system shall be considered part of, and shall comply with the requirements for the refrigerated air cooling supply duct system, or the connecting duct between the external appliance and the mobile supply duct system shall be a part of the listed appliance. The minimum dimension of any branch duct shall be at least 1–1/2 inches, and of any main duct, 2–1/2 inches.

(4) Airtightness of supply duct systems. A supply duct system shall be considered substantially airtight when the static pressure in the duct system, with all registers sealed and with the furnace air circulator at high speed, is at least 80 percent of the static pressure measured in the furnace casing, with its outlets sealed and the furnace air circulator operating at high speed. For the purpose of this paragraph and 280.715(b) pressures shall be measured with a water manometer or equivalent device calibrated to read in increments not greater than 1/10 inch water column.

(5) Expandable or multiple mobile home connections. (i) An expandable or multiple mobile home may have ducts of the heating system installed in the various units. The points of connection must be so designed and constructed that when the mobile home is fully expanded or coupled, the resulting duct joint will conform to the requirements of this Part. (ii) Installation instructions for supporting the cross–over duct from the mobile home shall be provided for onsite installation. The duct shall not be in contact with the ground.

(6) Air supply ducts shall be insulated with material having an effective thermal resistance (R) of not less than 4.0 unless they are within mobile home insulation having a minimum effective value of R–4.0 for floors or R–6.0 for ceilings.

(7) Supply and return ducts exposed directly to outside air, such as under chassis crossover ducts connecting external heating, cooling or combination heating/cooling appliances shall be insulated with material having a minimum thermal resistance of R=4.0 with a continuous vapor barrier having a perm rating of not more than 1 perm. Where exposed underneath the mobile home, all such ducts shall comply with 280.715(a)(5)(ii).

(b) Return air systems.

(1) Return air openings. Provisions shall be made to permit the return of circulating air from all rooms and living spaces, except toilet room(s), the to circulating air supply inlet of the furnace.

(2) Duct Material. Return ducts and any diverting dampers contained therein shall be in accordance with the following: (i) Portions of return ducts directly above the heating surfaces or closer than 2 feet from the outer jacket or casing of the furnace shall be constructed of metal in accordance with 280.715(a)(1) or shall be listed Class 0 or Class 1 air ducts. (ii) Return ducts, except as required by (a) above, shall be constructed of one–inch (nominal) wood boards (flame spread classification of not more than 200), other suitable material no more flammable than one–inch board or in accordance with 280.715(a)(1). (iii) The interior of combustible ducts shall be lined with noncombustible material at points where there might be danger from incandescent particles dropped through the register or furnace such as directly under floor registers and the bottom return. (iv) Factory made air ducts used for connecting external heating, cooling or combination heating/cooling appliances to the supply system and return air system of a mobile home shall be listed by a nationally recognized testing agency. Ducts applied to external heating appliances or combination heating/cooling appliances supply system outlets shall be constructed of metal in accordance with 280.715(a)(1) or shall be listed Class 0 or Class 1 air ducts for those portions of the duct closer than 2 feet from the outer casing of the appliance. (v) Ducts applied to external appliances shall be resistant to deteriorating environmental effects, including but not limited to ultra violet rays, cold weather, or moisture and shall be resistant to insects and rodents.

(3) Sizing. The cross–sectional areas of the return air duct shall not be less than 2 square inches for each 1,000 Btu per hour input rating of the appliance. Dampers shall not be placed in a combination fresh air intake and return air duct so arranged that the required cross–sectional area will not be reduced at all possible positions of the damper.

(4) Permanent uncloseable openings. Living areas not served by return air ducts or closed off from the return opening of the furnace by doors, sliding partitions, or other means shall be provided with permanent uncloseable openings in the doors or separating partitions to allow circu-

lated air to return to the furnace. Such openings may be grilled or louvered. The net free area of each opening shall not be less than 1 square inch for every 5 square feet of total living area closed off from the furnace by the door or partition serviced by that opening. Undercutting doors connecting the closed-off space may be used as a means of providing return air area. However, in the event that doors are undercut, they shall be undercut a minimum of 2 inches and no more than 2-1/2 inches, and no more than one half of the free air area so provided shall be counted as return air area.

(c) Joints and seams. Joints and seams of ducts shall be securely fastened and made substantially airtight. Slip joints shall have a lap of at least 1 inch and shall be individually fastened. Tape or caulking compound may be used for sealing mechanically secure joints. Where used, tape or caulking compound shall not be subject to deterioration under long exposures to temperatures up to 200°F and to conditions of high humidity, excessive moisture, or mildew.

(d) Supports. Ducts shall be securely supported.

(e) Registers or grilles. Fittings connecting the registers or grilles to the duct system shall be constructed of metal or material which complies with the requirements of Class 1 or 2 ducts under Underwriters' Laboratories, Inc. Standard for Air Ducts, UL181-1972. Air supply terminal devices (registers) when installed in kitchens, bedrooms and bathrooms shall be equipped with adjustable closeable dampers. Registers or grilles shall be constructed of metal or conform with the following:

(1) Be made of a material classified 94VE-0 or 94VE-1 when tested as described in Underwriters' Laboratories, Inc. Standard for Tests for Flammability of Plastic Materials for Parts in Devices and Appliances. UL94-1974.

(2) Floor register or grilles shall resist without structural failure a 200 lb. concentrated load on a 2-inch diameter disc applied to the most critical area of the exposed face of the register or grille. For this test the register or grille is to be at a temperature of not less than 165°F and is to be supported in accordance with the manufacturer's instructions.

Subpart I. Electrical Systems

280.801. Scope.

(a) Subpart I of this Standard and Part A of Article 550 of the National Electrical Code (NFPA No. 70-1975) cover the electrical conductors and equipment installed within or on mobile homes and the conductors that connect mobile homes to a supply of electricity.

(b) In addition to the requirements of this Standard and Article 550 of the National Electrical Code (NFPA No. 70-1975), the applicable portions of other Articles of the National Electrical Code shall be followed covering electrical installations in mobile homes. Wherever the requirements of this Standard differ from the National Electrical Code, this Standard shall apply.

(c) The provisions of this Standard apply to mobile homes intended for connection to a wiring system nominally rated 115/230 volts, 3-wire AC, with grounded neutral.

(d) All electrical materials, devices, appliances, fittings and other equipment shall be listed or labeled by a nationally recognized testing agency and shall be connected in an approved manner when in service.

(e) Aluminum conductors are not acceptable in branch circuit wiring in mobile homes except as specifically approved by the Department after examination of proposed systems for individual cases.

280.802. Definitions.

(a) The following definitions are applicable to Subpart I only.

(1) "Accessible (i) (As Applied to Equipment)" means admitting close approach because not guarded by locked doors, elevation, or other effective means (see "Readily Accessible"). (ii) (As Applied to Wiring Methods) means capable of being removed or exposed without damaging the mobile home structure or finish, or not permanently closed-in by the structure or finish of the mobile home (see "Concealed" and "Exposed").

(2) "Air Conditioning or Comfort Cooling Equipment" means all of that equipment intended or installed for the purpose of processing the treatment of air so as to control simultaneously its temperature, humidity, cleanliness, and distribution to meet the requirements of the conditioned space.

(3) (i) "Appliance" means utilization equipment, generally other than industrial, normally built in standardized sizes or types, which is installed or connected as a unit to perform one or more functions, such as clothes washing, air conditioning, food mixing, deep frying, etc. (ii) "Appliance, Fixed" means an appliance, "Portable" means an appliance which is actually moved or can easily be moved from one place to another in normal use. For the purpose of this Standard, the following major appliances are considered portable if cord-connected: refrigerators, clothes washers, dishwashers without booster heaters, or other similar appliances. (iv) "Appliance, Stationary" means an appliance which is not easily moved from one place to another in normal use.

(4) "Attachment Plug (Plug Cap) (Cap)" means a device which, by insertion in a receptacle, establishes connection between the conductors of the attached flexible cord and the conductors connected permanently to the receptacle.

(5) "Bonding" means the permanent joining of metallic parts to form an electrically conductive path which will assure electrical continuity and the capacity to conduct safely any current likely to be imposed.

(6) "Branch Circuit" (i) means the circuit conductors between the final overcurrent device protecting the circuit and the outlet(s). A device not approved for branch circuit protection, such as a thermal cutout or motor overload protective device, is not considered as the overcurrent device protecting the circuit. (ii) "Branch Circuit-Appliance" means a branch circuit supplying energy to one or more outlets to which appliances are to be connected; such circuits to have no permanently connected lighting fixtures not a part of an appliance. (iii) "Branch Circuit-General Purpose" means a circuit that supplies a number of outlets for lighting and appliances. (iv) "Branch Circuit-Individual" means a branch circuit that supplies only one utilization equipment.

(7) "Cabinet" means an enclosure designed either for surface or flush mounting, and provided with a frame, mat, or trim in which swinging doors are hung.

(8) "Circuit Breaker" means a device designed to open and close a circuit by nonautomatic means, and to open the circuit automatically on a predetermined overload of current without injury to itself when properly applied within its rating.

(9) "Concealed" means rendered inaccessible by the structure or finish of the mobile home. Wires in concealed raceways are considered concealed, even though they become accessible by withdrawing them. (See "Accessible (As Applied to Wiring Methods)")

(10) "Connector, Pressure (Solderless)" means a device that establishes a connection between two or more conductors or between one or more conductors and a terminal by means of mechanical pressure and without the use of solder.

(11) "Dead Front (As Applied to Switches, Circuit-Breakers, Switchboards, and Distribution Panelboard)" means so designed, constructed, and installed that no current-carrying parts are normally exposed on the front.

(12) "Demand Factor" means a ratio of the maximum demand of a system, or part of a system, to the total connected load of a system or the part of the system under consideration.

(13) "Device" means a unit of an electrical system that is intended to carry but not utilize electrical energy.

(14) "Disconnecting Means" means a device, or group of devices, or other means by which the conductors of a circuit can be disconnected from their source of supply.

(15) "Distribution Panelboard" means a single panel or a group of panel units designed for assembly in the form of a single panel, including buses, and with or without switches or automatic overcurrent protective devices or both, for the control of light, heat, or power circuits of small individual as well as aggregate capacity; designed to be placed in a cabi-

net placed in or against a wall or partition and accessible only from the front.

(16) "Enclosed" means surrounded by a case that will prevent a person from accidentally contacting live parts.

(17) "Equipment" means a general term, including material, fittings, devices, appliances, fixtures, apparatus, and the like used as a part of, or in connection with, an electrical installation.

(18) "Exposed" (i) (As Applied to Live Parts) means capable of being inadvertently touched or approached nearer than a safe distance by a person. It is applied to parts not suitably guarded, isolated, or insulated. (See "Accessible" and "Concealed.") (ii) (As Applied to "Wiring Method") means on or attached to the surface or behind panels designed to allow access. (See "Accessible (As Applied to wiring Methods)")

(19) "Externally Operable" means capable of being operated without exposing the operator to contact with live parts.

(20) "Feeder Assembly" means the overhead or under-chassis feeder conductors, including the grounding conductor together with the necessary fittings and equipment, or a power supply cord approved for mobile home use, designed for the purpose of delivering energy from the source of electrical supply to the distribution panelboard within the mobile home.

(21) "Fitting" means an accessory, such as a locknut, bushing, or other part of a wiring system, that is intended primarily to perform a mechanical rather than an electrical function.

(22) "Ground" means a conducting connection, whether intentional or accidental, between an electrical circuit or equipment and earth, or to some conducting body that serves in place of the earth.

(23) "Grounded" means connected to earth or to some conducting body that serves in place of the earth.

(24) "Grounded Conductor" means a system or circuit conductor that is intentionally grounded.

(25) "Grounding Conductor" means a conductor used to connect equipment or the grounded circuit of a wiring system to a grounding electrode or electrodes.

(26) "Guarded" means covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers, casings, barriers, rails, screens, mats or platforms to remove the likelihood of approach or contact by persons or objects to a point of danger.

(27) "Isolated" means not readily accessible to persons unless special means for access are used.

(28) "Laundry Area" means an area containing or designed to contain either a laundry tray, clothes washer and/or clothes dryer.

(29) "Lighting Outlet" means an outlet intended for the direct connection of a lampholder, a lighting fixture, or a pendant cord terminating in a lampholder.

(30) "Mobile Home Accessory Building or Structure" means by awning, cabana, ramada, storage cabinet, carport, fence, windbreak or porch established for the use of the occupant of the mobile home upon a mobile home lot.

(31) "Mobile Home Service Equipment" means the equipment containing the disconnecting means overcurrent protective devices, and receptacles or other means for connecting a mobile home feeder assembly.

(32) "Outlet" means a point on the wiring system at which current is taken to supply utilization equipment.

(33) "Panelboard" means a single panel or group of panel units designed few assembly in the form of a single panel; including buses, automatic overcurrent protective devices, and with or without switches for the control of light, heat, or power circuits; designed to be placed in a cabinet or cutout box placed in or against a wall or partition and accessible only from the front.

(34) "Raceway" means any channel for holding wires, cables, or busbars that is designed expressly for, and used solely for, this purpose. Raceways may be of metal or insulating material, and the term includes rigid metal conduit, rigid nonmetallic conduit, flexible metal conduit, electrical metallic tubing, underfloor raceways, cellular concrete floor raceways, cellular metal floor raceways, surface raceways, structural raceways, wireways, and busways.

(35) "Raintight" means so constructed or protected that exposure to a beating rain will not result in the entrance of water.

(36) "Readily Accessible" means capable of being reached quickly for operation, renewal, or inspection, without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders, chairs, etc. (See "Accessible")

(37) "Receptacle" means a contact device installed at an outlet for the connection of a single attachment plug. A single receptacle is a single contact device with no other contact device on the same yoke. A multiple receptacle is a single device containing two or more receptacles.

(38) "Receptacle Outlet" means an outlet where one or more receptacles are installed.

(39) "Utilization Equipment" means equipment which utilizes electric energy for mechanical, chemical, heating, lighting, or similar purposes.

(40) "Voltage (of a Circuit)" means the greatest root-mean-square (effective) difference of potential between any two conductors of the circuit concerned. Some systems, such as 3-phase 4-wire, single-phase 3-wire, and 3-wire direct current may have various circuits of various voltages.

(41) "Weatherproof" means so constructed or protected that exposure to the weather will not interfere with successful operation. Rainproof, raintight, or watertight equipment can fulfill the requirements for weatherproof where varying weather conditions other than wetness, such as snow, ice, dust, or temperature extremes, are not a factor.

280.803. Power Supply.

(a) The power supply to the mobile home shall be a feeder assembly consisting of not more than one listed 50 ampere mobile home power-supply cords, or a permanently installed circuit. A mobile home that is factory-equipped with gas or oil-fired central heating equipment and cooking appliances shall be permitted to be provided with a listed mobile home power-supply cord rated 40 amperes.

(b) If the mobile home has a power supply cord, it shall be permanently attached to the distribution panelboard or to a junction box permanently connected to the distribution panelboard, with the free end terminating in an attachment plug cap.

(c) Cords with adapters and pigtail ends, extension cords, and similar items shall not be attached to, or shipped with, a mobile home.

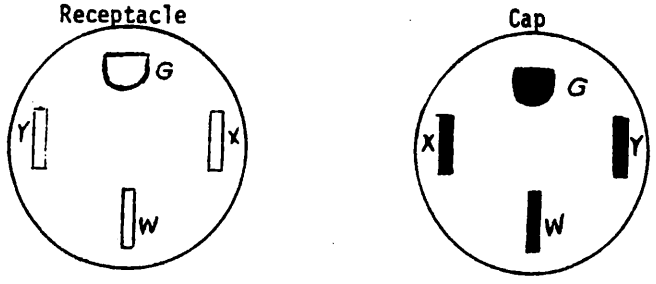
(d) A listed clamp or the equivalent shall be provided at the distribution panelboard knockout to afford strain relief for the cord to prevent strain from being transmitted to the terminals when the power-supply cord is handled in its intended manner.

(e) The cord shall be of an approved type with four conductors, one of which shall be identified by a continuous green color or a continuous green color with one or more yellow stripes for use as the grounding conductor.

(f) The attachment plug cap shall be a 3-pole, 4-wire grounding type, rated 50 amperes, 125/250 volts with a configuration as shown herein and intended for use with the 50-ampere, 125/250 receptacle configuration shown. It shall be molded of butyl rubber, neoprene, or other approved materials which have been found suitable for the purpose, and shall be molded to the flexible cord so that it adheres tightly to the cord at the point where the cord enters the attachment-plug cap. If a right-angle cap is used, the configuration shall be so oriented that the grounding member is farthest from the cord.

(g) The overall length of a power supply cord, measured from the end of the cord, including bared leads, to the face of the attachment-plug cap shall not be less than 21 feet and shall not exceed 36-1/2 feet. The length

of cord from the face of the attachment–plug cap to the point where the cord enters the mobile home shall not be less than 20 feet.



50–ampere 125/250 volt receptacle and attachment–plug–cap–configurations, 3 pole, 4–wire grounding types used for mobile home supply cords and mobile home parks. Complete details of the 50–ampere cap and receptacle can be found in the American National Standard Dimensions of Caps, Plugs and Receptacles, Grounding Type (ANSI C73.17–1972).

(h) The power–supply cord shall bear the following marking: "For use with mobile homes—40 amperes" or "For use with mobile homes—50 amperes."

(i) The point of entrance of the feeder assembly to the mobile home shall be in the exterior wall, floor, or roof, in the rear third section (away from the coupler), of the mobile home.

(j) Where the cord passes through walls or floors, it shall be protected by means of conduit and bushings or equivalent. The cord may be installed within the mobile home walls, provided a continuous raceway is installed from the branch–circuit panelboard to the underside of the mobile home floor. The raceway may be rigid conduit, electrical metallic tubing or polyethylene (PE), poly–vinylchloride (PVC) or acrylonitrile–butadiene–styrene (ABS) plastic tubing having a minimum wall thickness of nominal 1/8 inch.

(k) Permanent provisions shall be made for the protection of the attachment–plug cap of the power supply cord and any connector cord assembly or receptacle against corrosion and mechanical damage if such devices are in an exterior location while the mobile home is in transit.

(*l*) Where the calculated load exceeds 50 amperes or where a permanent feeder is used, the supply shall be by means of:

(1) One mast weatherhead installation installed in accordance with Article 230 of the National Electrical Code NFPA No. 70–1975 containing four continuous insulated, color–coded feeder conductors, one of which shall be an equipment grounding conductor; or

(2) An approved raceway from the disconnecting means in the mobile home to the underside of the mobile home with provisions for the attachment of a suitable junction box or fitting to the raceway on the underside of the mobile home. The manufacturer shall provide in his written installation instructions, the proper feeder conductor sizes for the raceway and the size of the junction box to be used.

280.804. Disconnecting Means and Branch–Circuit Protective Equipment.

(a) The branch–circuit equipment shall be permitted to be combined with the disconnecting means as a single assembly. Such a combination shall be permitted to be designated as a distribution panelboard. If a fused distribution panelboard is used, the maximum fuse size of the mains shall be plainly marked with lettering at least 1/4–inch high and visible when fuses are changed. See Section 110–22 of the National Electrical Code (NFPA No. 70–1975) concerning identification of each disconnecting means and each service, feeder, or branch circuit at the point where it originated and the type marking needed.

(b) Plug fuses and fuseholders shall be tamper–resistant. Type "S," enclosed in dead–front fuse panelboards. Electrical distribution panels containing circuit breakers shall also be dead–front type.

(c) Disconnecting means. A single disconnecting means shall be provided in each mobile home consisting of a circuit breaker, or a switch and fuses and their accessories installed in a readily accessible location near the point of entrance of the supply cord or conductors into the mobile home. The main circuit breakers or fuses shall be plainly marked "Main." This equipment shall contain a solderless type of grounding connector or bar for the purposes of grounding with sufficient terminals for all grounding conductors. The neutral bar termination of the grounded circuit conductors shall be insulated.

(d) The disconnecting equipment shall have a rating suitable for the connected load. The distribution equipment, either circuit breaker or fused type, shall be located a minimum of 24 inches from the bottom of such equipment to the floor level of the mobile home. There shall be a label attached to the panelboard stating: This Panelboard shall be connected by a Feeder Assembly having Overcurrent Protection rated at not more than _____ Amperes. The correct ampere rating shall be marked in a blank space.

(e) A distribution panelboard employing a main circuit breaker shall be rated 50 amperes and employ a 2–pole circuit breaker rated 40 amperes for a 40–ampere supply cord, or 50 amperes for a 50–ampere supply cord. A distribution panelboard employing a disconnect switch and fuses shall be rated 60 amperes and shall employ a single 2–pole, 60–ampere fuseholder with 40– or 50–ampere main fuses for 40– or 50–ampere supply cords, respectively. The outside of the distribution panelboard shall be plainly marked with the fuse size.

(f) The distribution panelboard shall not be located in a bathroom, or in any other inaccessible location, but shall be permitted just inside a closet entry if the location is such that a clear space of 6 inches to easily ignitable materials is maintained in front of the distribution panelboard, and the distribution panelboard door can be extended to its full open position (at least 90 degrees). A clear working space at least 30 inches wide and 30 inches in front of the distribution panelboard shall be provided. This space shall extend from floor to the top of the distribution panelboard.

(g) Branch–circuit distribution equipment shall be installed in each mobile home and shall include overcurrent protection for each branch circuit consisting of either circuit breakers or fuses.

(1) The branch circuit overcurrent devices shall be rated: (i) not more than the circuit conductors; and (ii) not more than 150 percent of the rating of a single appliance rated 10 amperes or more which is supplied by an individual branch circuit; but (iii) not more than the fuse size marked on the air conditioner or other motor–operated appliance.

(h) A 15–ampere multiple receptacle shall be acceptable when connected to a 20–ampere laundry circuit.

(i) When circuit breakers are provided for branch–circuit protection, 230–volt circuits shall be protected by 2–pole common or companion trip, or handle–tied paired circuit breakers.

(j) A metal nameplate on the outside adjacent to the feeder assembly entrance shall read: This Connection for 120/240 Volt, 3–Pole, 4–Wire, 60 Hertz _____ Ampere Supply. The correct ampere rating shall be marked in the blank space.

280.805. Branch Circuits Required.

(a) The number of branch circuits required shall be determined in accordance with the following:

(1) Lighting. Based on 3 watts per square foot times outside dimensions of the mobile home (coupler excluded) divided by 115 volts times amperage to determine number of 15–or 20–ampere lighting area circuits, e.g.,

$$\frac{3 \times \text{Length} \times \text{Width}}{115 \times 15 \text{ (or } 20)} = \text{No. of 15 (or 20) ampere circuits}$$

(2) Portable appliances. For the small appliance load in kitchen, pantry, family room, dining room and breakfast rooms of mobile homes, two or more 20–ampere appliance branch circuits, in addition to the branch circuit specified in 280.805(a)(1), shall be provided for all receptacle outlets in these rooms, and such circuits shall have no other outlets. Receptacle outlets supplied by at least two appliance receptacle branch circuits shall be installed in the kitchen.

(3) General appliances (Including furnace, water heater, range, and central or room air conditioner, etc.). There shall be one or more circuits of adequate rating in accordance with the following: (i) Ampere rating of fixed appliances not over 50 percent of circuit rating if lighting outlets (receptacles, other than kitchen, dining area, and laundry, considered as lighting outlets) are on the same circuits; (ii) For fixed appliances on a circuit without lighting outlets, the sum of rated amperes shall not exceed the branch–circuit rating for other than motor loads or 80 percent of the branch–circuit rating for air conditioning or other motor loads; (iii) The rating of a single portable appliance on a circuit having no other outlets shall not exceed 80 percent of the circuit rating: (iv) the rating of range branch circuit shall be based on the range demand as specified for ranges in 280.811. Item B(5) of Method 1. For central air conditioning, see Article 440 of the National Electrical Code (NFPA No. 70–1975). Where laundry facilities are provided in a mobile home, a 20–ampere branch circuit shall be provided within 6 feet of the intended location of the appliance. (See 280.804(j).

280.806. Receptacle Outlets.

(a) All receptacle outlets shall be:

(1) Of grounding type:

(2) Installed according to Section 210–7 of the National Electrical Code (NFPA No. 70–1975) and

(3) Except when supplying specific appliances, be parallel–blade, 15–ampere, 125–volt, either single or duplex.

(b) All 120 volt single phase, 15 and 20 ampere receptacle outlets, including receptacles in light fixtures, installed outdoors and in bathrooms shall have ground–fault circuit protection for personnel. Feeders supplying branch circuits may be protected by a ground–fault circuit interrupter in lieu of the provision for such interrupters specified above.

(c) There shall be an outlet of the grounding type for each cord–connected fixed appliance installed.

(d) Receptacle outlets required. Except in the bath and hall areas, receptacle outlets shall be installed at wall spaces 2 feet wide or more, so that no point along the floor line is more than 6 feet, measured horizontally, from an outlet in that space. In addition, a receptacle outlet shall be installed:

(1) Over or adjacent to counter tops in the kitchen (at least one on each side of the sink if counter tops are on each side and 12 inches or over in width).

(2) Adjacent to the refrigerator and free–standing gas–range space.

(3) At counter top spaces for built–in vanities.

(4) At counter top spaces under wall–mounted cabinets.

(5) In the wall, at the nearest point where a bar type counter attaches to the wall.

(6) In the wall at the nearest point where a fixed room divider attaches to the wall.

(7) In laundry area.

(8) At least one receptacle outlet shall be installed outdoors. Receptacle outlets located in compartments accessible from outdoors shall be considered outdoor receptacles and shall be protected as required in 280.806(b).

(9) Adjacent to bathroom basins or integral with the light fixture over the bathroom basin.

(10) Receptacle outlets are not required in the following locations: (i) wall space occupied by built–in kitchen or wardrobe cabinets, (ii) wall space behind doors which may be opened fully against a wall surface, (iii) room dividers of the lattice type, less than 8 feet long, not solid within 6 inches of the floor, (iv) wall space afforded by bar type counters.

(e) Receptacle outlets shall not be installed in or within reach (30 inches) of a shower or bathtub space.

(f) Receptacle outlets shall not be installed above electric baseboard heaters.

280.807. Fixtures and Appliances.

(a) Electrical materials, devices, appliances, fittings, and other equipment installed, intended for use in, or attached to the mobile home shall be approved for the application and shall be connected in an approved manner when in service. Facilities shall be provided to securely fasten appliances when the mobile home is in transit. (See 280.809.)

(b) Specifically listed pendant–type fixtures or pendant cords shall be permitted in mobile homes.

(c) If a lighting fixture is provided over a bathtub or in a shower stall, it shall be of the enclosed and gasketed type, listed for wet locations.

(d) The switch for shower lighting fixtures and exhaust fans located over a tub or in a shower stall shall be located outside the tub shower space. (See 280.806(e))

(e) Any combustible wall or ceiling finish exposed between the edge of a fixture, canopy, or pan and an outlet box shall be covered with noncombustible material.

(f) Every appliance shall be accessible for inspection, service, repair, or replacement without removal of permanent construction.

280.808. Wiring Methods and Materials.

(a) Except as specifically limited in this Part, the wiring methods and materials specified in the National Electrical Code (NFPA No. 70–1975) shall be used in mobile homes.

(b) Nonmetallic outlet boxes shall be acceptable only with nonmetallic cable.

(c) Nonmetallic cable located 15 inches or less above the floor, if exposed, shall be protected from physical damage by covering boards, guard strips, or conduit. Cable likely to be damaged by stowage shall be so protected in all cases.

(d) Nonmetallic sheathed cable shall be secured by staples, straps, or similar fittings so designed and installed as not to injury any cable. Cable shall be secured in place at intervals not exceeding 4–1/2 feet and within 12 inches from every cabinet, box or fitting.

(e) Metal–clad and nonmetallic cables shall be permitted to pass through the centers of the wide side of 2–inch by 4–inch studs. However, they shall be protected where they pass through 2–inch by 2–inch studs or at other studs or frames where the cable or armor would be less than 1–1/2 inches from the inside or outside surface of the studs when the wall covering materials are in contact with the studs. Steel plates on each side of the cable, or a tube, with not less than No. 16 MSG wall thickness shall be required to protect the cable. These plates or tubes shall be securely held in place.

(f) Where metallic faceplates are used they shall be effectively grounded.

(g) If the range, clothes dryer, or similar appliance is connected by metal–clad cable of flexible conduit, a length of not less than three feet or free cable or conduit shall be provided to permit moving the appliance. Type NM or Type SE cable shall not be used to connect a range ore a dryer. This shall not prohibit the use of Type NM or Type SE cable between the branch circuit overcurrent protective device and a junction box or range or dryer receptacle.

(h) Threaded rigid metal conduit shall be provided with a locknut inside and outside the box, and a conduit bushing shall be used on the inside. Rigid nonmetallic conduit shall be permitted. Inside ends of the conduit shall be reamed.

(i) Switches shall be rated as follows:

(1) For lighting conduits, switches shall have a 10–ampere, 120–125 volt rating; or higher if needed for the connected load.

(2) For motors or other loads, switches have ampere or horsepower ratings, or both, adequate for loads controlled. (An "AC general–use" snap switch shall be permitted to control a motor 2 horsepower or less with full–load current not over 80 percent of the switch ampere rating).

(j) At least 4 inches of free conductor shall be left at each outlet box except where conductors are intended to loop without joints.

(k) When outdoor or under–chassis line–voltage wiring is exposed to moisture or physical damage, it shall be protected by rigid metal conduit. The conductors shall be suitable for wet locations. Electrical metallic tubing may be used when closely routed against frames and equipment enclosures.

(*l*) The cables or conductors shall be Type NMC, TW, or equivalent.

(m) Outlet boxes of dimensions less than those required in Table 370–6(a) of the National Electrical Code (NFPA No. 70–1975), shall be permitted provided the box has been tested and approved for the purpose.

(n) Boxes, fittings and cabinets shall be securely fastened in place, and shall be supported from a structural member of the home, either directly or by using a substantial race. Snap–in type boxes provided with special wall or ceiling brackets that securely fasten boxes in walls or ceilings shall be permitted.

(o) Outlet boxes shall fit closely to openings in combustible walls and ceilings, and they shall be flush with such surfaces.

(p) Appliances having branch–circuit terminal connections which operate at temperatures higher than 60° C (140° F) shall have circuit conductors as described in paragraph (p)(1) and (2) of this section:

(1) Branch–circuit conductors having an insulation suitable for the temperature encountered shall be permitted to run directly to the appliance.

(2) Conductors having an insulation suitable for the temperature encountered shall be run from the appliance terminal connections to a readily accessible outlet box placed at least one foot from the appliance. These conductors shall be in a suitable raceway which shall extend for at least 4 feet.

280.809. Grounding.

(a) General. Grounding of both electrical and nonelectrical metal parts in a mobile home shall be through connection to a grounding bus in the mobile home distribution panelboard. The grounding bus shall be grounded through the green–colored conductor in the supply cord or the feeder wiring to the service ground in the service–entrance equipment located adjacent to the mobile home location. Neither the frame of the mobile home nor the frame of any appliance shall be connected to the neutral conductor in the mobile home.

(b) Insulated neutral.

(1) The grounded circuit conductor (neutral) shall be insulated from the grounding conductors and from equipment enclosures and other grounded parts. The grounded (neutral) circuit terminals in the distribution panelboard and in ranges, clothes dryers, counter–mounted cooking units, and wall–mounted ovens shall be insulated from the equipment enclosure. Bending screws, straps, or buses in the distribution panelboard or in appliances shall be removed and discarded.

(2) Connection of ranges and clothes dryers with 115/230–volt, 3–wire ratings shall be made with 4–conductor cord and 3–pole, 4–wire grounding type plugs, or by Type AC metal–clad cable or conductors enclosed in flexible metal conduit. For 115–volt rated devices, a 3–conductor cord and a 2–pole, 3–wire grounding–type plug shall be permitted.

(c) Equipment grounding means.

(1) The green–colored grounding wire in the supply cord or permanent feeder wiring shall be connected to the grounding bus in the distribution panelboard or disconnecting means.

(2) In the electrical system, all exposed metal parts, enclosures, frames, lamp fixture canopies, etc., shall be effectively bonded to the grounding terminal or enclosure of the distribution panelboard.

(3) Cord–connected appliances, such as washing machines, clothes dryers, refrigerators, and the electrical system of gas ranges, etc., shall be grounded by means of an approved cord with grounding conductor and grounding–type attachment plug.

(d) Bonding of noncurrent–carrying metal parts.

(1) All exposed noncurrent carrying metal parts that may become energized shall be effectively bonded to the grounding terminal or enclosure of the distribution panelboard. A bonding conductor shall be connected between each distribution panelboard and an accessible terminal on the chassis.

(2) Grounding terminals shall be of the solderless type and approved as pressure–terminal connectors recognized for the wire size used. Star washers or other approved paint–penetrating fitting shall be used to bond terminals to chassis or other coated areas. The bonding conductor shall be solid or stranded, insulated or bare, and shall be No. 8 copper minimum or equal. The bonding conductor shall be routed so as not to be exposed to physical damage. Protection can be afforded by the configuration of the chassis.

(3) Metallic gas, water and waste pipes and metallic air–circulating ducts shall be considered bonded if they are connected to the terminal on the chassis (see 280.809) by clamps, solderless connectors, or by suitable grounding–type straps.

(4) Any metallic roof and exterior covering shall be considered bonded if (i) the metal panels overlap one another and are securely attached to the wood or metal frame parts by metallic fasteners, and (ii) if the lower panel of the metallic exterior covering is secured by metallic fasteners at a cross member of the chassis by two metal straps per mobile home unit or section at opposite ends. The bonding strap material shall be a minimum of 4 inches in width of material equivalent to the skin or a material of equal or better electrical conductivity. The straps shall be fastened with paint–penetrating fittings (such as screws and star washers or equivalent).

280.810. Electrical Testing.

(a) Dialectric Strength Test. The wiring of each mobile home shall be subjected to a 1–minute, 900–volt dielectric strength test (with all switches closed) between live parts (including neutral) and the mobile home ground. Alternatively, the test may be performed at 1,080 volts for 1 second. This test shall be performed after branch circuits are complete and after fixtures or appliances are installed. Fixtures or appliances which are listed shall not be required to withstand the dielectric strength test.

(b) Each mobile home shall be subjected to: (1) A continuity test to assure that metallic parts are properly bonded. (2) Operational test to demonstrate that all equipment is connected and in working order and (3) Polarity checks to determine that connections have been properly made.

280.811. Calculations.

(a) The following method shall be employed in computing the supply–cord and distribution–panelboard load for each feeder assembly for each mobile home and shall be based on a 3–wire, 115/230–volt supply with 115–volt loads balanced between the two legs of the 3–wire system. The total load for determining power supply by this method is the summation of:

(1) Lighting and small appliance land as calculated below:

(i) Lighting Watts: Length times width of mobile home (outside dimensions exclusive of coupler) times 3 watts per square foot; e.g. Length x width x 3 = lighting watts.

(ii) Small Appliance Watts: Number of circuits times 1,500 watts for each 20–ampere appliance receptacle circuit (See definition of "Appliance Portable" with note): e.g. Number of circuits x 1,500 = small appliance watts.

(iii) Total Watts: Lighting watts plus small appliance = total watts.

(iv) First 3,000 total watts at 100 percent plus remainder at 35 percent=watts to be divided by 230 volts to obtain current (amperes) per leg.

(2) Nameplate amperes for motors and heater loads (exhaust fans, air conditioners, electric, gas, or oil heating). Omit smaller of air conditioning and heating except include blower motor if used as air conditioner evaporator motor. When an air conditioner is not installed and a 40–ampere power supply cord is provided, allow 15 amperes per leg for air conditioning.

(3) 25 percent of current of largest motor in (2).

(4) Total of nameplate amperes for: Disposal, dishwasher, water heater, clothes dryer, wall–mounted oven, cooking units. Where number of these appliances exceeds three, use 75 percent of total.

(5) Derive amperes for free–standing range (as distinguished from separate ovens and cooking units) by dividing values below by 230 volts.

Name plate rating (in watts)	*Use (in watts)*
10,000 or less	80 percent of rating
10,001 to 12,500	8,000
12,501 to 13,500	8,400
13,501 to 14,500	8,800
14,501 to 15,500	9,200
15,501 to 16,500	9,600
16,501 to 17,500	10,000

(6) If outlets or circuits are provided for other than factory–installed appliances include the anticipated load. The following example is given to illustrate the application of this Method of Calculation:

Example. A mobile home is 70 x 10 feet and has two portable appliance circuits, a 1000 watts 230 volt heater, a 200 watt 115 volt exhaust fan, a 400 watt 115 volt dishwasher and a 7000 watt electric range.

Lighting and small appliance load:	*Watts*
Lighting 70 x 10 x 3	2,100
Small appliance 1,500 x 2	3,000
Total	5,100
1st 3,000 W at 100 pct	3,000
Remainder (5,100 – 3,000 = 2,100) at 35 pct	735
Total	3,735

$$\frac{3,735}{230} = 16 \text{ A per leg}$$

1,000 W (heater) 230 = 4.4 A.
200 W (fan) 115 = 1.7 A.
400 W (dishwasher) 115 = 3.5 A.
7,000 W (range) x 0.8 230 = 24.0 A.

	-Amperes per leg A	B
Lighting and Appliances	16	16
Heater (230V)	4	4
Fan (115V)	2	–
Dishwasher (115V)	–	4
Range	24	24
Totals	46	48

NOTE: Based on the higher current calculated for either leg, use on 50–A supply cord.

(b) The following is an optional method of calculation for lighting and appliance loads for mobile homes served by a single 3–wire 115/230 volt set of feeder conductors with an ampacity of 100 or greater. The total load for determining the feeder ampacity may be computed in accordance with the following Table instead of the method previously specified. Feeder conductors whose demand load is determined by this optional calculation shall be permitted to have the neutral load determined by Section 220–22 of the National Electrical Code. The loads identified in the Table as "other load" and as "Remainder of other load" shall include the following:

(1) 1500 watts for each 2–wire, 20–ampere small appliance branch circuit and each laundry branch circuit specified.

(2) 3 watts per square foot for general lighting and general–use receptacles.

(3) The nameplate rating of all fixed appliances, ranges, wall–mounted ovens, counter–mounted cooking units, and including 4 or more separately controlled space heating loads.

(4) The nameplate ampere or kVA rating of all motors and of all low–power–factor loads.

(5) The largest of the following: (i) air conditioning load; (ii) the 65 percent diversified demand of the central electric space heating load; (iii) the 65 percent diversified demand of the load of less than four separately–controlled electric–space heating units; (iv) the connected load of four or more separately–controlled electric space heating units.

OPTIONAL CALCULATION FOR MOBILE HOMES WITH 100–AMPERE OR LARGER SERVICE

Load (in kilowatt or kilovoltampere)	*Demand factor (percent)*
Air conditioning and cooling including heat pump compressors	100
Central electric space heating	65
Less than 4 separately controlled electric space heating units	65
1st 10 kW of all other load	100
Remainder of other load	40

280.812. Wiring of Expandable Units and Dual Units.

(a) Expandable or dual unit mobile homes shall use fixed–type wiring methods and materials for connecting such units to each other.

(b) Expandable or multiple unit mobile homes not having permanently installed feeders and which are to be moved from one location to another, shall be permitted to have disconnecting means with branch circuit protective equipment in each unit when so located that after assembly or joining together of units the requirements of 280.803 will be met.

280.813. Outdoor Outlets, Fixtures, Air–Conditioning Equipment, etc.

(a) Outdoor fixtures and equipment shall be listed or approved for outdoor use. Outdoor receptacles or convenience outlets shall be of a gasketed–cover type.

(b) A mobile home provided with an outlet designed to energize heating and/or air conditioning equipment located outside the mobile home, shall have permanently affixed, adjacent to the outlet, a metal tag which reads:

This Connection Is for Air Conditioning Equipment Rated at Not More Than ____ Amperes, at ____ Volts, 60 Hertz. A disconnect shall be located within sight of the appliance.

The correct voltage and ampere ratings shall be given. The tag shall be not less than 0.020 inch, etched brass, stainless steel, anodized or alclad aluminum or equivalent. The tag shall be not less than 3 inches by 1–3/4 inches minimum size.

280.814. Painting of Wiring.

During painting or staining of the mobile home, it shall be permitted to paint metal raceways (except where grounding continuity would be reduced) or the sheath of the nonmetallic cable. Some arrangement, however, shall be made so that no paint shall be applied to the individual wires, as the color coding may be obliterated by the paint.

280.815. Polarization.

(a) The identified (white) conductor shall be employed for grounding circuit conductors only and shall be connected to the identified (white) terminal or lead on receptacle outlets and fixtures. It shall be the unswitched wire in switched circuits, except that a cable containing an identified conductor (white) shall be permitted for single–pole three–way or four–way switch loops where the connections are made so that the unidentified conductor is the return conductor from the switch to the outlet. Painting of the terminal end of the wire shall not be required.

(b) If the identified (white) conductor of a cable is used for other than grounded conductors or for other than switch loops as explained above (for a 230–volt circuit, for example), the conductor shall be finished in a color other than white at each outlet where the conductors are visible and accessible.

(c) Green–colored wires or green with yellow stripe shall be used for grounding conductors only.

280.816. Examination of Equipment for Safety.

The examination or inspection of equipment for safety, according to this standard, shall be conducted under uniform conditions and by organizations properly equipped and qualified for experimental testing, inspections of the run of goods at factories, and service–value determinations through field examinations.

Subpart J. Transportation

280.901. Scope.

Subpart J of this Standard covers the general requirement for designing the structure of the mobile home to fully withstand the adverse effects of transportation shock and vibration without degradation of the integrated structure or of its component parts and the specific requirements pertaining to the transportation system and its relationship to the structure.

280.902. Definitions.

(a) "Chassis" means the entire transportation system comprising the following subsystems: drawbar and coupling mechanism, frame, running gear assembly, and lights.

(b) "Drawbar and Coupling Mechanism" means the rigid assembly, (usually an "A" frame) upon which is mounted a coupling mechanism, which connects the mobile home's frame to the towing vehicle.

(c) "Frame" means the fabricated rigid substructure which provides considerable support to the affixed mobile home structure both during transport and on–site; and also provides a platform for securement of the running gear assembly, the drawbar and coupling mechanism.

(d) "Running Gear Assembly" means the subsystem consisting of suspension springs, axles, bearings, wheels, hubs, tires, and brakes, with their related hardware.

(e) "Lights" means those safety lights and associated wiring required by applicable U.S. Department of Transportation regulations.

(f) "Transportation System," (Same as Chassis, above).

(g) "Highway," includes all roads and streets to be legally used in transporting the mobile home.

(h) "Length," for purposes of transportation only, means the distance from the extreme front of the mobile home to the extreme rear, including the drawbar and coupling mechanism, but not including expandable features that do not project from the body during transportation.

280.903. General Requirements for Designing the Structure to Withstand Transportation Shock and Vibration.

(a) The cumulative effect of highway transportation shock and vibration upon a mobile home structure may result in incremental degradation of its designed performance in terms of providing a safe healthy, and durable dwelling. Therefore, the mobile home shall be designed, in terms of its structural, plumbing, mechanical and electrical systems, to fully withstand such transportation forces during its intended life. (See 280.303(c) and 280.305(a))

(b) Particular attention shall be given to maintaining watertight integrity and conserving energy by assuring that structural components in the roof and walls (and their interfaces with vents, windows, doors, etc.) are capable of resisting highway shock and vibration forces during primary and subsequent secondary transportation moves.

(c) In place of an engineering analysis, either of the following may be accepted: (1) Documented technical data of suitable highway tests which were conducted to simulate transportation loads and conditions; or (2) acceptable documented evidence of actual transportation experience which meets the intent of this subpart.

280.904. Specific Requirements for Designing the Transportation System.

(a) General. The entire system (frame, drawbar and coupling mechanism, running gear assembly, and lights) shall be designed and constructed as an integrated, balanced and durable unit which is safe and suitable for its specified use during the intended life of the mobile home. In operation, the transportation system (supporting the mobile home structure and its contents) shall effectively respond to the control of the towing vehicle in terms of tracking and braking, while traveling at applicable highway speeds and in normal highway traffic conditions.

(Note: While the majority of mobile homes utilize a fabricated steel frame assembly, upon which the mobile home structure is constructed, it is not the intent of this standard to limit innovation. Therefore, other concepts, such as integrating the frame function into the mobile home structure, are acceptable provided that such design meets the intent and requirements of this part).

(b) Specific requirements.

(1) Drawbar. The drawbar shall be constructed of sufficient strength, rigidity and durability to safely withstand those dynamic forces experienced during highway transportation. It shall be securely fastened to the mobile home frame by either a continuous weld or by bolting.

(2) Coupling mechanism. The coupling mechanism (which is usually of the socket type) shall be securely fastened to the drawbar in such a manner as to assure safe and effective transfer of the maximum loads, including dynamic loads, between the mobile home structure and the hitch–assembly by the towing vehicle. The coupling shall be equipped with a manually operated mechanism so adapted as to prevent disengagement of the unit while in operation. The coupling shall be so designed that it can be disconnected regardless of the angle of the mobile home to the towing vehicle. With the mobile home parked on level ground, the center of the socket of the coupler shall not be less than 20 inches nor more than 26 inches from ground level.

(3) Chassis. The chassis, in conjection with the mobile home structure, shall be designed and constructed to effectively sustain the designed loads consisting of the dead load plus a minimum of 3 pounds per square foot floor load, (example: free–standing range, refrigerator, and loose furniture) and the superimposed dynamic load resulting from highway movement but shall not be required to exceed twice the dead load. The integrated design shall be capable of insuring rigidity and structural integrity of the complete mobile home structure and to insure against deformation of structural or finish members during the intended life of the home.

(4) Running gear assembly.

(i) The running gear assembly, as part of the chassis, shall be designed to perform, as a balanced system, in order to effectively sustain the designed loads set forth in 280.904(b)(3) and to provide for durable dependable safe mobility of the mobile home. It shall be designed to accept shock and vibration, both from the highway and the towing vehicle and effectively dampen these forces so as to protect the mobile home structure from damage and fatigue. Its components shall be designed to facilitate routine maintenance, inspection and replacement.

(ii) Location of the running gear assembly shall be determined by documented engineering analysis, taking into account the gross weight (including all contents), total length of the mobile home, the necessary coupling hitch weight, span distance, and turning radius. The coupling weight shall be not less than 12 percent nor more than 25 percent of the gross weight.

(5) Spring assemblies. Spring assemblies (springs, hangers, shackles, bushings and mounting bolts) shall be capable of withstanding all of the design loads as outlined in 280.904(b)(3) without exceeding maximum allowable stresses for design spring assembly life as recommended by the spring assembly manufacturer. The capacity of the spring system shall assure, that under maximum operating load conditions, sufficient clearance shall be maintained between the tire and mobile home frame or structure to permit unimpeded wheel movement and for changing tires.

(6) Axles. Axles, and their connecting hardware, shall be capable of withstanding all of the design loads outlined in 280.904(b)(3) without exceeding maximum allowable stresses for design axle life as recommended by the axle manufacturer. The number of axles required to provide a safe tow and good ride characteristics shall be determined and documented by engineering analysis. Those alternatives listed in 280.903(c) may be accepted in place of such an analysis.

(7) Hubs and bearings. Hubs and bearings shall meet the requirements of 280.904(b)(3) and good engineering practice. Both of these components shall be accessible for inspection, routine maintenance and replacement of parts.

(8) Tires, wheels, and rims. Tires, wheels and rims shall meet the requirements of 280.9094(b)(3). Tires shall be selected for anticipated usage.

(9) Brake assemblies.

(i) The number, type, size and design of brake assemblies required to assist the towing vehicle in providing effective control and stopping of the mobile home shall be determined and documented by engineering analysis. These alternatives listed in 280.90(c) may be accepted in place of such an analysis.

(ii) Brakes on the towing vehicle and the mobile home shall be capable of assuring that the maximum stopping distance from an initial velocity of 20 miles per hour does not exceed 40 feet (U.S. Department of Transportation Regulations).

(1) Lights and associated wiring. Highway safety electrical lights and associated wiring shall conform to applicable federal requirements in terms of location and performance. The manufacturer shall have the option of meeting this requirement by utilizing a temporary light/wiring harness provided by the mobile home transportation carrier.

HISTORY

1. Addition of quoted Section 280.7 filed 9–8–76 as procedural and organizational; effective upon filing (Register 76, No. 37).
2. Editorial correction of quoted section 280.306, subsection (a) (Register 96, No. 37).

Article 2.5. Fire Sprinkler Systems

§ 4300. Application of Design and Installation Requirements; Preemption of Local Design and Installation Requirements.

(a) The requirements of this article apply to the design and installation of a fire sprinkler system—

(1) in a new or used manufactured home that is used or intended for use as a dwelling, and

(2) in new or used multi–unit manufactured housing with two dwelling units.

(b) The requirements of this article preempt all other requirements, including those of any ordinance or rule adopted by any city, county, city and county, or special district, as well as a fire district, that establish standards for the design and installation of a fire sprinkler system—

(1) in a new or used manufactured home that is used or intended for use as a dwelling, and

(2) in new or used multi–unit manufactured housing with two dwelling units.

(c) These regulations do not require the installation of a fire sprinkler system in a manufactured home or in multi–unit manufactured housing with two dwelling units.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New article 2.5 (sections 4300–4324) and section filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4302. Adoption by Reference of the Provisions of NFPA 13D, "Standard for the Installation of Sprinkler Systems in One– and Two– Family Dwellings and Manufactured Homes."

(a) The design and installation of a fire sprinkler system must comply—

(1) with the requirements of NFPA 13D, "Standard for the Installation of Sprinkler Systems in One– and Two– Family Dwellings and Manufactured Homes," 1999 edition, as published by the National Fire Protection Association; hereby incorporated by reference; and amended by subsection (c), and

(2) with the provisions of Title 25, California Code of Regulations, sections 4300, 4302, 4304, 4306, 4308, 4310, 4312, 4314, 4316, 4318, 4320, 4322, and 4324.

(b) References to the nationally recognized standard incorporated at subsection (a) will appear throughout Article 2.5 as NFPA 13D.

(c) The following provisions of NFPA 13D are not adopted:

(1) the "exception" provided at section 1–5.2,

(2) subsection (d) of section 2–3,

(3) section A–1.3. Approved.,

(4) section A–1.3. Authority Having Jurisdiction. and

(5) section A–1.3. Listed.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New section filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4304. Definitions.

(a) The definitions contained in section 4004 and the definitions contained in chapter 1 of NFPA 13D apply to sections 4300 through 4324, with the exception of those definitions listed in subsection (b).

(b) The following definitions contained in chapter 1 of NFPA 13D are superseded by the provisions of 18001, 18003.3, 18007, and 18015 of the Health and Safety Code and subsections (*l*), (w), and (y) of section 4004 and do not apply to sections 4300 through 4324:

(1) Approved.

(2) Authority Having Jurisdiction

(3) Dwelling.

(4) Dwelling Unit.

(5) Labeled.

(6) Listed.

(7) Manufactured Home.

(8) Shall.

(9) Sprinkler System.

(10) Standard.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18001, 18003.3, 18007, 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New section filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4306. Restrictions on the Sale of a Sprinklered Manufactured Home or of Sprinklered Multi–unit Manufactured Housing with Two Dwelling Units.

It is unlawful for any person to sell, offer for sale, rent, or lease within this state any manufactured home or multi–unit manufactured housing with two dwelling units, if a fire sprinkler system already installed or intended to be installed in the manufactured home or in multi–unit manufactured housing with two dwelling units will not operate properly given the water pressure available at the proposed installation site.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18035, 18035.2, 18046 18046.1 and 18060.5, Health and Safety Code.

HISTORY

1. New section filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4308. Requirements for the Approval of the Plans for a Fire Sprinkler System Requirements for the Inspection of the Installation of a Fire Sprinkler System.

(a) The following requirements apply to the installation of a fire sprinkler system during the manufacture of a manufactured home or of multi–unit manufactured housing with two dwelling units:

(1) A Design Approval Agency must review and approve the plans for the fire sprinkler system, including the residential sprinkler installation instructions, before the fire sprinkler system is installed.

(2) A Quality Assurance Agency must inspect and approve the installation of the fire sprinkler system.

(A) The manufacturer must make the approved plans available to the Quality Assurance Agency at the manufacturing site prior to and throughout the installation of the fire sprinkler system.

(B) The Quality Assurance Agency must inspect the installation of the fire sprinkler system during the manufacturing process. The inspection

must occur prior to the point in the manufacturing process when any portion of the fire sprinkler system is concealed by wall or ceiling materials.

(b) The following requirements apply to the installation of a fire sprinkler system after the manufactured home or the multi–unit manufactured housing with two dwelling units is shipped from the manufacturing facility:

(1) The department must approve the plans for the installation, which is an alteration.

(A) The person proposing to install the fire sprinkler system must apply for the department's approval as required by section 4042.

(B) The application for the department's approval must include plans for the proposed fire sprinkler system and a copy of the residential sprinkler installation instructions.

(2) The person installing a fire sprinkler system in a manufactured home or in a multi–unit manufactured housing dwelling unit with two dwelling units must be either the homeowner functioning as an owner–builder under the conditions of Business and Professions Code section 7026.12 or a fire protection contractor holding a valid C–16 license issued by the California Contractors Licensing Board.

(3) The person installing the fire sprinkler system must obtain an inspection of the installation by a representative of the department prior to concealing any portion of the system with wall or ceiling material.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code; and Section 7026.12, Business and Professions Code.

HISTORY

1. New section filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4310. Resolution of Disputes About the Requirements of NFPA 13D.

The department, in consultation with the Office of the State Fire Marshal, will resolve any dispute about the application of the requirements of NFPA 13D to manufactured homes and to multi–unit manufactured housing with two dwelling units.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New section filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4312. Types of Materials; Standards for Materials; Listing and Labeling of Materials and Equipment Standard for Residential Sprinklers; Listing Criteria for Sprinklers Used in a Limited Area Dwelling Manufacturer's Installation Instructions.

(a) All piping, fittings, hangers, braces and supports, automatic sprinklers, valves, gauges and other materials or devices necessary to assemble a fire sprinkler system must conform to the requirements of NFPA 13D for the types of materials, for the standards with which the materials comply, and for the listing and labeling with which the materials and equipment must comply.

(b) Residential sprinklers must be listed as complying with UL 1626, "Residential Sprinklers for Fire Protection Service," 1994 edition, with revisions dated through October 8, 1997, as published by Underwriter's Laboratories and hereby incorporated by reference.

(c) The listing for residential sprinklers used in a limited area dwelling must include the criteria specified at section A–5–3.1 of Appendix A of NFPA 13D.

(d) The person installing the fire sprinkler system must obtain any applicable manufacturer's installation instructions, when such instructions are issued by the manufacturer.

(1) The person installing the fire sprinkler system must install all materials and devices as required by the manufacturer's installation instructions.

(2) The person installing the fire sprinkler system must make the manufacturer's installation instructions available to the inspector from the Quality Assurance Agency or to the inspector from the department for use during the inspection required by section 4308.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New section filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4314. Construction Methods and Workmanship.

(a) Construction methods and workmanship requirements of the national Manufactured Home Construction and Safety Standards at 24 CFR Part 3280 apply to the installation of a fire sprinkler system during the manufacture of a manufactured home or of multi–unit manufactured housing with two dwelling units.

(b) The following requirements apply to the installation of a fire sprinkler system after the manufactured home or multi–unit manufactured housing with two dwelling units is shipped from the manufacturing facility.

(1) The person installing the fire sprinkler system—

A. must perform all work in a manner suitable for the purpose and

B. must maintain the integrity of both the components under installation and the components of other systems.

(2) The person installing the fire sprinkler system must bore holes in or notch structural framing members for the passage of piping as required by section 4316.

A. Alternate sizing and placement of holes and notches requires evidence provided by the installer with the plans for the fire sprinkler system proving that the alternate boring or notching maintains the integrity of the structural system.

B. The evidence must consist of engineering analysis or testing conducted and certified by a California licensed architect or professional engineer.

(3) If any insulation, vapor barriers, underfloor bottom board, or any other materials are cut or moved in order to install a fire sprinkler system, the person installing the fire sprinkler system shall repair, replace, or reposition the materials in a workmanlike manner that maintains the integrity of the materials and system,

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New section filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4316. Placement and Size of Holes and Notches in Joists, Beams, Plates, and Studs.

(a) Joist.

(1) A notch on the end of a joist must not be deeper than one–fourth (1/4) the depth of the joist.

(2) The edge of a hole bored in a joist must be at least two (2) inches from the top and at least two (2) inches from the bottom of the joist. The diameter of the hole must not exceed one–third (1/3) the depth of the joist.

(3) A notch in the top or bottom of a joist must not be deeper than one–sixth (1/6) the depth of the joist. The notch must not be located in the middle one–third (1/3) of the span of the joist.

(b) A hole in a ridge beam must not be more than 2″ in diameter and must be located in the middle one–third (1/3) of the depth of the beam.

(c) Top or bottom wall plate or a sill plate—

(1) A hole must not exceed 40% of the width of the plate,

(2) The edge of a hole must be at least 5/8 inch from any edge of the plate.

(3) The edge of a hole must be separated by at least 12 inches from the nearest edge of other holes or notches in the same plate.

(d) Wall studs.

(1) A hole in a wall stud must not exceed 40% of the width of the stud,

(2) The edge of a hole in a wall stud must be at least 5/8 inch from any edge of the stud.

(3) A hole in a wall stud must not be located in the middle one–third (1/3) of the length of the stud.

(4) Only one hole is allowed in the upper or lower one–third (1/3) length of a wall stud.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New section filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4318. Fire Sprinkler System Information and Installer Certification Label Reference Tag.

(a) The installer of the fire sprinkler system must complete and affix:

(1) a "Fire Sprinkler System Information and Installer Certification" label, and

(2) a Reference Tag.

(b) A "Fire Sprinkler System Information and Installer Certification" label,

(1) must be either printed on paper or scribed, etched or engraved in metal, plastic or other equivalent material, with lettering at least 10 point font size;

(2) must be at least 8.5 inches by 11 inches in size;

(3) must be located on a wall or door surface inside the water heater compartment;

(4) must be positioned in a manner that allows a person to easily read the label; and

(5) must be affixed with adhesive or fasteners that discourage the removal of the label.

(c) A "Fire Sprinkler System Information and Installer Certification" label must include all the statements and requested information arranged in substantially the same layout, as shown on the following example:

Fire Sprinkler System Information and Installer Certification

Attention: Do not remove or cover this label.

This dwelling unit contains a residential fire sprinkler system. The system installer certifies that the system complies with the requirements of Title 25, California Code of Regulations, sections 4300 through 4324 and NFPA 13D, *Standard for the Installation of Sprinkler Systems in One– and Two–Family Dwellings and Manufactured Homes,* 1999 Edition. **Do not change** (alter) the fire sprinkler system without approval of the California Department of Housing and Community Development, Division of Codes and Standards. A homeowner **may perform repairs** without the Department's approval, **if all materials and devices installed are the same type or characteristics** as the materials and devices replaced. Please refer to section 4324 of the above noted regulations. Only the homeowner may change (alter) or repair the fire sprinkler system as an owner–builder without violating the State Contractors Licensing Board requirements. Any other person making changes (alterations) or repairs to the system must hold a valid C–16 contractor's license. Future additions of heat sources, such as a wood burning stove or fireplace, may adversely affect the performance of sprinklers and may activate one or more sprinklers. You may obtain permits and information about fire sprinkler systems from the California Department of Housing & Community Development, Division of Codes and Standards.

Signature of System Installer	Date	County	State

Installation, Design Approval, and Inspection Agency Information
Name and Address of System Installer:
Manufactured Home Serial Number(s):
Date System Installed:
Name and Address of Agency Approving Design:
Name and Address of Agency Inspecting Installation:

System Design Basis and Tests	Sprinkler Information
Number of Design Sprinklers: 1 head 2 head Design Coverage: _____ ft. X _____ ft. Flow rate one sprinkler ____ gpm @_____ psi Flow rate two sprinkler ____ gpm @_____psi	Manufacturer: _____ Model: _____ Year of Manufacture: _____ Temperature rating: _____ degrees F Orifice Size: _____ inches
System installer must test this system as required by Title 25, California Code of Regulations, section 4320. Homeowner or installer must hydrostatically test system for two hours at 50 psi minimum; 100 psi maximum.	Special Heads: sidewall(s) intermediate temperature not applicable

Water Supply Requirements
In order for the fire sprinkler system to operate properly, the follow minimum water supply must be available at the base of the fire sprinkler system riser: _____ GPM @ not less than _____ psi for not less than _____ minutes.

(d) A Reference Tag,

(1) must be made of paper, or at least the equivalent;

(2) must be at least 2 inches by 4 inches in size;

(3) must contain lettering of at least 10 point font size;

(4) must be covered in a permanent manner with a material that will protect the tag from damage or deterioration without obscuring the information;

(5) must be permanently affixed to the fire sprinkler system riser by adhesive, or by plastic or wire tie, or the equivalent in a manner that prevents damage or loss; and

(6) must be positioned in a manner that is conspicuous to the representative of the enforcement agency that appears at the installation site for the manufactured home or multi-unit manufactured housing with two dwelling units.

(e) A Reference Tag must include all the statements and requested information arranged in substantially the same layout as shown in the following example:

NOTICE TO ENFORCEMENT AGENCY AND REPAIR PERSONS

Information pertaining to the fire sprinkler system design, inspections, and water supply needs are provided on the Fire Sprinkler Information label located in the water heater compartment of this dwelling unit.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New section filed 1-17-2001; operative 1-17-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4320. Requirements for Testing the System.

(a) A fire sprinkler system installed during the manufacture of the manufactured home or multi-unit manufactured housing with two dwelling units must be hydrostatically tested both at the manufacturing facility and at the home's installation site.

(1) The hydrostatic test performed at the manufacturing facility:

A. must be conducted on the completely assembled system within any one transportable section; and

B. must subject the system to 100 pounds per square inch (psi) hydrostatic pressure for not less than 2 hours without any loss of pressure or leakage of water. Testing shall be performed in accordance with the applicable product standards.

(2) The person responsible for installing the manufactured home or multi-unit manufactured housing with two dwelling units must hydrostatically test the system again at the home's installation site with the water supply available at the site for at least one hour without any evidence of leakage.

A. The testing must be performed at a minimum of 50 psi; not to exceed 100 psi.

B. A representative of the enforcement agency must witness the test at the installation site during the same visit to the installation site to inspect the installation of the home or dwelling unit.

(b) A fire sprinkler system installed after the manufactured home or multi-unit manufactured housing with two dwelling units is shipped from the manufacturing facility must be hydrostatically tested at the home's installation site.

(1) The person who installed the fire sprinkler system is responsible for performing the test.

(2) A representative of the enforcement agency must witness the test.

(3) The installer must conduct the test on the completely assembled system.

(4) The installer must conduct the test with the water supply available at the home's site for a period of two hours without any evidence of leakage. The testing must be performed at a minimum of 50 psi; not to exceed 100 psi.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New section filed 1-17-2001; operative 1-17-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4322. Maintenance Instructions.

If the manufacturer of a fire sprinkler system component used in a system provides written instructions and procedures for the operation, maintenance, periodic testing, and repair of the component, a copy of the instructions and procedures must be left in each dwelling unit for the end user.

(a) When the fire sprinkler system is installed during the manufacture of the manufactured home or multi-unit manufactured housing with two dwelling units, the manufacturer must ensure that a copy of the instructions and procedures is left in each dwelling unit.

(b) When the fire sprinkler system is installed after the manufactured home or multi-unit manufactured housing with two dwelling units is shipped from the manufacturing facility, the person who installs the system must ensure that a copy of the instructions and procedures is left in each dwelling unit.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New section filed 1-17-2001; operative 1-17-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

§ 4324. Repairs and Alterations to an Existing Fire Sprinkler System or Components.

(a) Any operated or damaged residential sprinkler must be replaced with a new residential sprinkler that is the same model as the original or that has the same performance characteristics as the original residential sprinkler.

(b) The replacement of a damaged or operated residential sprinkler with a new residential sprinkler of the same model or performance characteristics is not an alteration.

(c) The replacement of any other fire sprinkler system material or device with a material or device of the same model or with the same performance characteristics is not an alteration of the system.

(d) An alteration of the fire sprinkler system includes any of the following activities:

(1) The conversion of the system, such as a conversion to upgrade the system to increase the protection against property damage;

(2) The replacement of the system with a completely new system;

(3) An addition to the system, such as extending the system to provide coverage to a newly added room;

(4) The modification of the system, such as moving the system riser; or

(5) The removal of a portion or all of the system, such as the removal of a portion of the system from a room.

(e) The alteration of a fire sprinkler system is subject to the department's approval of the plans for the alteration and to an inspection of the completed alteration by a representative of the department.

(1) The person proposing to alter the fire sprinkler system must apply for the department's approval as required by section 4042.

(2) The application for the department's approval must include plans for the alteration and a copy of any automatic sprinkler installation instructions.

(3) The person altering a fire sprinkler system must be either the homeowner functioning as a builder-owner under the conditions of Business and Professions Code section 7026.12 or a fire protection contractor holding a valid C-16 license issued by the California Contractors Licensing Board.

(4) The person altering the fire sprinkler system must obtain an inspection of the alteration by a representative of the department prior to concealing any portion of the altered system with wall or ceiling material.

NOTE: Authority cited: Sections 18015, 18025, 18029 and 18029.5, Health and Safety Code. Reference: Sections 18015, 18025, 18029, 18029.5 and 18030.5, Health and Safety Code.

HISTORY

1. New section filed 1–17–2001; operative 1–17–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 3).

Article 3. Commercial Coaches

Subarticle 1. Construction and Fire Safety

§ 4350. Application and Scope.

(a) The provisions of this article relating to construction and fire safety apply to all commercial coaches manufactured after September 15, 1971, and sold or offered for sale within this state. The provisions of this article are also applicable to the alteration or conversion of any construction or fire–safety equipment or installations and change of occupancy in any commercial coach bearing or required to bear a department insignia of approval.

(b) Standards for Equipment and Installations. Standards for equipment and installations are listed in Appendix CC, Table CC–1. Equipment and installations conforming to these standards or to other approved standards shall be considered acceptable by the department when listed or labeled and installed in accordance with the requirements of this chapter and the conditions of their approval, except where otherwise provided in this chapter. All equipment shall be clearly labeled to indicate compliance with applicable standards.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18000 et seq., Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 7–23–71 as an emergency; effective upon filing (Register 71, No. 30).
2. Certificate of Compliance—Sec. 11422.1, Gov. Code, filed 11–16–71 (Register 71, No. 47).
3. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
4. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4352. General.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055, 18056.3, 18056.5 and 18058, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
3. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).
4. Renumbering and amendment consolidating Section 4352 with Section 4004 filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
5. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
6. Renumbering and amendment consolidating Section 4352 with Section 4004 filed 3–3–8 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
7. Certificate of Compliance transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).

§ 4353. Minimum Requirements.

(a) The construction and fire safety requirements of a commercial coach shall conform to the provisions of this article.

(b) All construction methods and installations shall be in conformance with this subchapter and accepted engineering practices and shall provide minimum health, safety, and fire protection to the occupants of commercial coaches and the public.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18056.5 and 18058, Health and Safety Code.

HISTORY

1. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
2. Amendment filed 6–7–77; designated effective 9–1–77 (Register 77, No. 24).
3. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4354. Structural Analysis.

The strength and rigidity of the component parts and/or the integrated structure shall be determined by engineering analysis or by suitable load tests pursuant to Section 4360.7.

Unit stresses may be increased in accordance with the applicable Accepted Engineering Practice Standards listed in Appendix CC–1, Table CC–1.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4355. Standards for Equipment and Installations.

HISTORY

1. Amendment of section and repealer of Table 1 filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).

§ 4356. Structural Requirements.

Commercial coaches shall be designed and constructed as a completely integrated structure capable of sustaining the design load requirements of this article and shall be capable of transmitting these loads to running gear or stabilizing devices without causing an unsafe deformation or abnormal internal movement of the structure or its structural parts.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4356.5. New Materials and Methods.

Any new material or method of construction not provided for in this article and any material or method of questioned suitability, proposed for use in the manufacture of the structure, shall nevertheless conform in performance as outlined in this article.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4357. Design Dead Loads.

Design dead loads shall be actual dead load supported by the structural assembly under consideration.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).

[The next page is 183.]

§ 4357.5. Design Live Loads.

The design live loads shall be as specified in this section and Sections 4358, through 4360.4 and shall be considered to be uniformly distributed. The roof live load shall not be considered as acting simultaneously with the wind load or earthquake load, and the roof and floor live loads shall not be considered as resisting the overturning moment due to wind. Wind and earthquake loads need not be assumed to act simultaneously.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4358. Wind Loads.

(a) Commercial coaches shall be designed to withstand minimum horizontal and uplift pressures from any direction as follows:

Horizontal ..... 15 lb/ft^2

(b) Where it is known that the commercial coach will be subject to wind loads in excess of those listed above, the commercial coach shall be designed for the appropriate loads.

(c) Roofs of all enclosed vehicles shall be designed to withstand pressures acting upward normal to the surface equal to 3/4 of the horizontal wind loads.

(d) Eaves and cornices shall be designed for a net uplift pressure of one and one– fourth times the horizontal wind load.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
4. Amendment filed 12–7–79;; effective thirtieth day thereafter (Register 79, No. 49).

§ 4358.3. Earthquake Regulations.

Every commercial coach and every portion thereof shall be designed to resist stresses produced by lateral forces in accordance with Section 2312 of the Uniform Building Code, 1976 edition.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

§ 4359. Roof Loads.

Flat, curved, and pitched roof members shall be designed to sustain all dead loads plus unit live loads as set forth in Table No. 23–C of the Uniform Building Code, 1976 edition.

All roofs shall be designed with sufficient slope or camber to assure adequate drainage, or shall be designed to support maximum loads including possible pounding of water due to deflection.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4360. Snow Loads.

Where it is known that the commercial coach will be subjected to snow loads, the commercial coach shall be designed for the appropriate loads.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
4. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4360.1. Posting Design Loads.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
3. Repealer filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4360.2. Floors.

(a) Floor assemblies shall be designed to sustain all uniform dead loads plus uniform live loads as set forth in Table 23–A of the Uniform Building Code, 1976 edition.

(b) Floors in units where partitions are installed shall be designed to support in addition to all other loads, a uniformly distributed dead load equal to 10 pounds per square foot.

(c) Structural floor sheathing shall meet the requirements of Section 2517(h) of the Uniform Building Code, 1976 edition.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4360.3. Fastening of Structural Systems.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4360.4. Interior Walls.

Interior walls, permanent partitions and temporary partitions which exceed 6 feet in height shall be designed to resist all loads to which they are subject but not less than a force of five pounds per square foot applied to perpendicular to the walls. The deflection of such walls under a load of five pounds per square foot shall not exceed 1/240 of the span for walls with brittle finishes and 1/120 of the span for walls with flexible finishes.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4360.5. Instructions.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4360.6. Design Load Deflections.

When a structural assembly is subjected to total design load, the deflection shall not exceed the following:

Floor L/240
Roof and Ceiling Members L/180
Walls and Partitions L/180

Where L = the clear span between supports or two times the length of a cantilever.

When a structural assembly is subjected to total design live load, the deflection shall not exceed the following: ..... Floor L/360.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4360.7. Structural Load Tests.

Every structural assembly tested shall be capable of meeting the Proof Load Test or the Ultimate Load Test as follows:

(a) Proof Load Tests. Every structural assembly tested shall be capable of sustaining its dead load plus superimposed live load equal to 1.75 times

the required live loads for a period of 12 hours without failure. Tests shall be conducted with loads applied and deflections recorded in 1/4 design live load increments at 10–minute intervals until 1.25 times design live load plus dead load has been reached. Additional load shall then be applied continuously until 1.75 times design live load plus dead load has been reached. Assembly failure shall be considered as design live load deflection (or residual deflection measured 12 hours after live load removal) which is greater than the limits set in Section 4360.6, rupture, fracture, or excessive yielding. An assembly to be tested shall be of the minimum quality of materials and workmanship of the production. Each test assembly, component, or subassembly shall be identified as to type and quality or grade of material. All assemblies, components, or subassemblies qualifying under this section shall be subject to continuing qualification testing program acceptable to the department.

(b) Ultimate Load Tests. Ultimate load tests shall be performed on a minimum of three assemblies to generally evaluate the structural design. Every structural assembly tested shall be capable of sustaining its total dead load plus live loads increased by a factor of safety consistent with the material being tested. Factors of safety shall be based on nationally recognized standards and approved by the department. Tests shall be conducted with loads applied and deflections recorded in 1/4 design live load increments at 10–minute intervals until 1.25 times design live load plus dead load has been reached. Additional loading shall then be applied continuously until failure occurs or a load equal to dead load plus 1.5 factor of safety times the design live load is reached. Assembly failure shall be considered as design live load deflection greater than the limits set in Section 4360.6, rupture, fracture, or excessive yielding. Assemblies to be tested shall be representative of minimum quality or materials and workmanship of the production. Each test assembly, component, or subassembly shall be identified as to type and quality or grade of material. All assemblies, components, or subassemblies qualifying under this section shall be subject to a periodic qualification testing program acceptable to the department.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4360.8. Test Procedure for Roof Trusses.

(a) Roof Load Tests. The following is an acceptable test procedure for roof trusses that are supported at the ends and support design loads. Where roof trusses act as support for other members, act as cantilevers, or support concentrated loads, they shall be tested accordingly.

(b) General. Trusses may be tested in pairs or singly in a suitable test facility. When tested singly, simulated lateral support of the test assembly may be provided, but in no case shall this lateral support exceed that which is specified for the completed commercial coach. When tested in pairs, the trusses shall be spaced at the design spacing and shall be mounted on solid support accurately positioned to give the required clear span distance (L) as specified in the design. The top and bottom chords shall be braced and covered with the material with connections or method of attachment as specified by the completed commercial coach.

(1) As an alternate test procedure, the top chord may be sheathed with 1/4 inch by 12 inch plywood strips. The plywood strips shall be at least long enough to cover the top chords of the trusses at the designated design truss spacing. Adjacent plywood strips must be separated by at least 1/8 inch. The plywood strip shall be nailed with 4d nails or equivalent staples not closer than 8 inches on center along the top chord of one truss only. The bottom chords of the adjacent trusses may be either: (A) unbraced, (B) laterally braced together (not cross braced) with 1″ x 2″ stripping not closer than 24 inches on center nailed with only one 6d nail at each truss, or (C) covered with the material with connections or methods of attachment as specified for the completed commercial coach.

(2) Truss deflections will be measured relative to a taut wire running over the support and weighted at the end to insure constant tension or other approved methods. Deflections will be measured at the two quarter points and at midspan. Loading shall be applied to the top chord through a suitable hydraulic, pneumatic, or mechanical system, masonry units, or weights to simulate design loads. Load units for uniformly distributed loads shall be separated so that arch action does not occur, and shall be spaced not greater than 12 inches on center so as to simulate uniform loading.

(c) Nondestructive Test Procedure.

(1) Dead Load Plus Live Load.

(A) Noting Figure A, measure and record initial elevation of the truss in test position at no load.

(B) Apply load units to the top chord of the truss equal to the full dead load of roof and ceiling. Measure and record deflections.

(C) Maintaining the dead load, add live load in approximately 1/4 design live load increments. Measure the deflections after each loading increment. Apply incremental loads at a uniform rate such that approximately one–half hour is required to establish the total design load condition. Measure and record the deflections five minutes after loads have been applied. The maximum deflection due to design dead load plus live load (deflection measured in Step (C) minus Step (B) shall not exceed L/180, where L is a clear span measured in the same units.

(D) Continue to load truss to dead load plus 1.75 times the design live load. Maintain this loading for 12 hours and inspect truss for failure.

(E) Remove the total superimposed live load. Trusses not recovering to at least L/180 position within 12 hours shall be considered as failing.

(2) Uplift Loads. This test shall only be required for truss designs which may be critical under uplift load conditions.

(A) Measure and record initial elevation of the truss in an inverted test position at no load. Bottom chord of the truss shall be mounted in the horizontal position.

(B) Apply the uplift load as stated in 4360.6 to the bottom of the chord of the truss. Measure and record the deflections 5 minutes after the load has been applied.

(C) Continue to load the truss to 1.75 times the design uplift load. Maintain this load for 3 hours and inspect the truss for failure.

(D) Remove applied loads and within three hours, the truss must recover to at least L/240 position, where L is a clear span measured in the same units.

(d) Destructive Test Procedure.

(1) Destructive tests shall be performed on three trusses to generally evaluate the truss design.

(2) Noting Figure A–1, apply the load units to top chord of the truss assembly equal to full dead load of roof and ceiling. Measure and record deflections. Then apply load and record deflections in 1/4 design live load increments at 10–minute intervals until 1.25 times design live load plus dead load has been reached.

(3) Additional loading shall then be applied continuously until failure occurs or a load equal to dead load plus 1.5 to the factor of safety times the design live load is reached.

(4) Assembly failure shall be considered as design live load deflections greater than L/180 rupture, fracture, or excessive yielding.

(5) The assembly shall be capable of sustaining the dead load plus the applicable factor of safety times the design live load (the applicable factor of safety for wood trusses shall be taken as 2.50).

(e) Trusses qualifying under the nondestructive test procedure (Tests C–1) and C–2) shall be subject to a continuing qualification testing program acceptable to the department. Trusses qualifying under the nondestructive and destructive test procedures (Tests C–1 and C–2, and D) shall be subject to retesting when required by the department.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4360.9. Fastening of Structural Systems.

Roof framing shall be securely fastened to wall framing, walls to floor structure and floor structure to chassis to secure and maintain continuity

between the floor and chassis, so as to resist wind over–turning and sliding as imposed by design loads in Section 4358.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4361. Walls.

The walls shall be of sufficient strength to withstand the load requirements as defined in Sections 4358, 4358.3, 4359, and 4360, without exceeding the deflections specified in Section 4360.6. The connections between the bearing walls, floor, and roof framework members shall be fabricated in such a manner as to provide support for the material used to enclose the commercial coach and to provide for transfer of all lateral and vertical loads to the floor and chassis.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4361.3. Drilling or Notching of Wood Wall Structural Members.

Except where substantiated by engineering designs, studs shall not be notched or drilled in the middle one–third of their length.

HISTORY

1. New section filed 9–7–70; effective thirtieth day thereafter (Register 73, No. 36).

§ 4362. Interior Partitions.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Repealer filed 12–7079; effective thirtieth day thereafter (Register 79, No. 49).

§ 4362.5. Firestopping.

(a) Firestopping of 2 inch minimum thickness nominal lumber or the equivalent, shall be provided to effectively close concealed draft openings in all walls including furred spaces, so placed that the maximum vertical dimension of any concealed space is not over eight feet.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4363. Floor Construction.

(a) Floor members shall be capable of withstanding the design loads and shall meet the deflection requirements of Section 4350.6.

(b) Perimeter joints of more than six inches (6″) depth shall be stabilized against overturning from superimposed loads as follows: at ends by solid blocking not less than two–inch (2″) thickness by full depth of joist, or by connecting to a continuous header not less than two–inch (2″) thickness and not less than the depth of the joist, with approved connecting device; at eight feet (8″) maximum intermediate spacing by solid blocking or by wood cross–bridging of not less than one inch by three inches (1″ x 3″), metal cross–bridging of equal strength or other methods approved by the department.

(c) Wood floors or subfloors in kitchens, laundry rooms, water heater compartments and any other interior areas subject to excessive moisture shall be made impervious to moisture by sealing with an approved material, or by applying an overlay of approved nonabsorbent material applied with water resistant adhesive.

(d) Floors under heating appliances shall not be covered with materials such as flammable carpeting.

(e) Carpet. Carpet and carpet pads shall not be installed in concealed spaces subject to excessive moisture such as under plumbing fixtures. Carpet and/or carpet pads shall not be installed beneath the bottom plate of shear or bearing walls.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4363.3. Drilling or Notching of Wood Joist Structural Members.

Except where substantiated by engineering design, notches on the ends of joists shall not exceed one–fourth the joist depth. Holes bored in joist shall not be within 2 inches of the top or bottom of the joist, and the diameter of any such hole shall not exceed one–third the depth of the joist. Notches in the top or bottom of the joists shall not exceed one–sixth the depth and shall not be located in the middle third of the span.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).

§ 4363.4. Roof Members.

(a) Roof members shall be capable of withstanding the loads and meet the deflection requirements of Section 4359 and 4360. Drilling or notching shall be substantiated by engineering design.

(b) The connections between roof framework members and bearing walls shall be fabricated in such a manner to provide for the transfer of design vertical and horizontal loads to the bearing walls and to resist uplift forces. All roof members shall be laterally braced.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4363.5. Undervehicle Closure Material.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
2. Amendment of NOTE filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
3. Repealer filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4363.6. Roof Coverings.

Roof coverings shall be as specified in Chapter 32, Uniform Building Code, 1976 edition.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4364. Weather Resistance.

(a) Exterior coverings shall be of approved moisture and weather resistive materials attached with corrosion resistant fasteners in accordance with the manufacturer's instructions to resist wind, snow, and rain. Metal coverings and exposed metal structural members shall be of corrosion–resistant materials or shall be protected to resist corrosion. All joints between portions of the exterior covering shall be designed and assembled to protect against the infiltration of air and water, except for any designed ventilation of wall or roof cavity.

(b) Joints between dissimilar materials and joints between exterior coverings and frames of openings shall be protected with a compatible sealant suitable to resist infiltration of air or water.

(c) Where adjoining materials or assemblies of materials are of such nature that separation can occur due to expansion, contraction, wind loads or other loads induced by erection or transportation, sealants shall

be of a type that maintains protection against infiltration or penetration by air, moisture or vermin.

(d) Exterior surfaces shall be sealed to resist the entrance of rodents.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4365. Undervehicle Closure Material.

Undervehicle closure material and method of construction shall be such as to resist damage which would permit penetration of the underside of the commercial coach by water, or rodents. The closure material shall be listed and installed as follows:

(a) Fibrous material (with or without patches) shall meet or exceed the level of 48–inch pounds of puncture resistance as tested by the Beach Puncture Test in accordance with ASTM designation D 781–68.

(b) The material shall be installed in accordance with installation instructions furnished by the supplier of the material.

(c) The material shall be suitable for patches and the patch life shall be equivalent to the material life. Patch installation instructions shall be included in the commercial coach manufacturer's instructions. (See Section 4368)

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4366. Tiedowns.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 9–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4367. Weather Resistance.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4368. Instructions.

The manufacturer shall provide printed instructions with each commercial coach specifying the following:

(1) The location and required capacity of stabilizing devices (tiedowns, piers, blocking, etc.) on which the design is based.

(2) Devices and methods to be used in connecting all components and systems including, but not limited to, roofs, walls, floors and utilities.

(3) Leveling, including releveling.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73;(Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4369. Heat Loss.

(a) That portion of a commercial coach containing a hotel, motel, apartment house, lodging house, dwelling unit, dormitory, or guest room shall be constructed to comply with this section.

(b) The minimum total resistance value (R), excluding framing of the wall (less windows and doors), ceiling, and floor shall not be less than:

Wall	11.0
Ceiling	19.0
Floor	11.0

(c) Compliance. Upon completion of the installation of insulation, a label certifying that the insulation has been installed in conformance with the requirements of these regulations shall be completed and executed by the manufacturer.

This insulation compliance label shall be posted at a conspicuous location within the commercial coach.

(d) Doors, windows and exhaust fans shall meet the air infiltration requirements of T20– 1403d, Title 24, C.A.C.

(e) Climate control equipment shall comply with Sections T20–1404 and T20–1405, Title 24, C.A.C.

(f) Service hot water heating shall comply with Section T20–1406(a) (b) (d) & (f), Title 24, Part 6, Article 2, Division 1, California Administrative Code.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055 and 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; ; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6–9–77; designated effective 9–1–77 (Register 75, No. 30).
3. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4369.5. Energy Requirements.

All commercial coaches except those occupancies listed in Section 4369 shall comply with Sections T20–1452, T20–1454, and T20–1455, Title 24, Part 6, Article 2, Division 1, California Administrative Code, and the following requirements.

(a) Vehicle Envelope.

(1) The U value of the opaque surfaces between conditioned and unconditioned in spaces shall not exceed the values shown in Table A–1. Or 2. The envelope shall comply with Sections T20–1492 thru T20–1494, Title 24, Part 6, Article 2, division 1, California Administrative Code.

TABLE A–1

Vehicle Component	*Maximum U Value*	
	1	*2*
Wall	0.095	0.080
Ceilings	0.060	0.050
Floors	0.090	0.080

[1] When the effects of all elements of construction, including framing members such as joist and studs, are considered or when all the thermal insulation is installed so that it is not penetrated by framing members.

[2] When the effects of framing members such as studs and joist are not considered.

(b) Air Leakage.

(1) General. The requirements for air leakage are limited to those locations separating exterior vehicle ambient conditions from interior building conditioned air space and are not applicable to the separation of interior conditioned spaces from each other.

(2) Compliance. Compliance with the requirements for air leakage shall be determined by ASTM E283–73, Standard Method of Test for Rate of Air Leakage through Exterior Windows, Curtain Walls and Doors, at a pressure differential of 1.567 lb/ft^2, which is equivalent to the effect of a 25 mph wind.

(3) Air Leakage Requirements–Window. Air leakage requirements for windows shall be as follows:

(A) The air infiltration rate for manufactured openable exterior windows shall not exceed 0.5 frm per foot of operable sash crack. All manufactured windows shall be certified and labeled and shall comply with the above standards for air infiltration.

NOTE: Required steel fire–rated windows are exempted from these requirements.

(B) The air exfiltration rate for manufactured openable exterior windows shall meet the requirements of Section T20–1495 (c) (1) Title 24, Part 6, Article 2, Division 1, California Administrative Code by January 1, 1980.

(C) Fixed windows constructed on site shall be sealed to limit air infiltration.

(4) Air Leakage Requirements. Doors. Air leakage requirements for doors shall be as follows:

(A) The air infiltration rate for manufactured exterior sliding glass doors shall not exceed 0.75 cfm per linear foot or crack. All manufactured sliding glass doors shall be certified and labeled and shall comply with the above standards for air infiltration.

NOTE: Required steel fire-rated doors are exempted from these requirements.

(B) The air exfiltration rate for manufactured exterior sliding glass doors shall meet the requirements of Section T20-1495 (d) (1) Title 24, Part 6, Article 2, Division 1, California Administrative Code by January 1, 1980.

(C) All exterior doors, other than fire-rated doors, shall be so designed to limit air leakage around their perimeter when in a closed position.

(1) All doors shall be provided with a seal, astragal, or baffle at the head and sill.

(2) Door frames mounted on either the inside or outside of an exterior wall shall have a minimum one-inch lap at each jamb.

(3) Doors requiring vertical track or guides shall use a continous mounting angle, sealed in accordance with Section T20-1495 (e) Title 24, Part 6, Article 2, Division 1, California Administrative Code at each Jamb.

(4) Doors mounted between the jambs shall have a continuous seal or baffle at each jamb.

(5) Meeting rails of sectional doors and meeting stiles or rails of bi-parting doors shall be provided with a seal, astragal or baffle.

(6) Swinging and revolving doors shall be weather-stripped at the head, sill, and jambs.

(7) Double doors shall be provided with a weather-tight astragal or closure at the center crack.

(c) Caulking and Sealants. Open exterior joints around window and door frames, between wall and floor, between wall and roof, at penetrations of utility services through walls, floors and roofs and all other openings in the exterior envelope shall be seald, caulked gasketed, or weather-stripped to limit air leakage.

(d) Gravity Ventilators. Gravity ventilators shall comply with the provisions of Section T20-1505, Title 24, Part 6, Article 2, Division 5, California Administrative Code.

EXCEPTION: Commercial Coaches with 1,000 square feet or less of gross floor area do not need to comply with this subsection.

(f) Heating, Ventilating, and Air Conditioning (HVAC) Equipment. HVAC equipment performance shall comply with Sections T20-1510 through T20-1518, Title 24, Part 6, Article 2, Division 6, California Administrative Code.

EXCEPTION: Commercial Coached with 1,000 square feet or less of gross floor area do not need to comply with this subsection.

(g) Service Water Heating. Service water heating shall comply with Sections T20-1520 Through T20-1525, Title 24, Part 6, Article 2, division 7, California Administrative Code.

(h) Lighting. Lighting shall comply with Sections T20-1540 through T20-1542, Title 24, Part 6, Article 2, Division 9, California Administrative Code.

EXCEPTION: Commercial coaches with 1,000 square feet of gross floor area or less having 2.7 watts per square foot lighting load or less need only comply with Section T20-1541 (b), Title 24, Part 6, Article 2, Division 9, California Administrative Code.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18056.3 and 18056.5, Health and Safety Code.

HISTORY

1. New section filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
3. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4370. Noise Insulation Standards.

Noise insulation installations shall be in accordance with applicable requirements of California Administrative Code, Title 24, Part 6, Division T25, Chapter 1, Subchapter 1, Article 4, Section T25-28. The provisions of this section apply to new hotels, motels, apartment houses and dwelling occupancies other than detached single-family dwellings.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.6 Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4371. Glass and Glazed Openings.

All glass and glazing shall comply with Chapter 54, *Uniform Building Code*, 1976 edition.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4372. Fire Safety and Occupancy.

Commercial coaches shall comply with requirements for fire safety and occupancy, as required for a building of like occupancy pursuant to the Uniform Building Code, 1976 edition, applicable requirements of Section B1316, Part 2, Title 24, California Administrative Code, and applicable requirements of Title 19, California Administrative Code, relating to fire alarm and automatic sprinkler systems, unless specifically exempted or required by this article.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18056.5 and 18058, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4373. Fire Safety and Occupancy.

HISTORY

1. Repealer filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).

§ 4374. Interior Walls, Partitions, and Ceilings.

The interior finish of all commercial coaches shall comply with Chapter 42, Uniform Building Code, 1976 edition.

NOTE: Authority cited Section 18020, Health and Safety Code. Reference: Section 18058, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No.36).
2. Amendment filed 7-25-75; designated effective 9-1-75 (Register 75, No.30).
3. Amendment of subsections (a) and (e) filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
4. Amendment filed 12-8-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4376. Exits.

Commercial coaches shall be provided with exits, as required for the type of occupancy for which the coach is designed, in accordance with Chapter 33 of the Uniform building Code, 1976 edition.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18056.5 and 18058, Health and Safety Code.

HISTORY

1. New section filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4377. Interior Walls, Partitions, and Ceilings.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18058, Health and Safety Code.

HISTORY

1. New section filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4378. Fire Safety and Occupancy.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18056.5 and 18058, Health and Safety Code.

HISTORY

1. New section filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77 No. 24).
3. Repealer filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4379. Physically Handicapped Requirements.

Sanitary facilities shall comply with the requirements of of the Uniform Building Code, 1976 edition, Section 1711.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5 Health and Safety Code 1711.

HISTORY

1. New section filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
3. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

Appendix CC-1

Table CC-1
Accepted Engineering Practice Standards

Aluminum	
Aluminum Construction Manual, Specifications for Aluminum Structure	AA- 1971
Steel	
Specification for the Design, Fabrication, and Erection of Structural Steel for Buildings	AISC-1973*
Specification for the Design of Cold-Formed Steel Structural Members	AISI-1968**
Specification for the Design of Light Gage Cold-Form Stainless Steel Structural Members	AISI-1968
Standard Specifications for Open Web Steel Joist, J & H-Series	AISC & SJI-1970
Structural Welding Code	AWS D1.0-72
Wood and Wood Products	
Hardboard	AHA PS 58-73, 59-73, 60-73
Hardwood and Decorative Plywood	USDC PS 51-71
Structural Design Guide for Hardwood Plywood HPMA Design Guide	HP-SG-71
Plywood Construction Guide	APA C 300-1978
Timber, Structural Glued Laminated-Inspection Manual for	AITC 200-1973
Timber, Structural Glued Laminated	USD PS 56-73
Softwood Plywood-Construction and Industrial	PS 1-74
Design and Fabrication Specifications for Plywood Lumber Components	D860-1978
National Design Specifications for Wood Construction	NFPA-1977***
Wood Structural Design Data	NFPA-1978
Span Tables for Joist and Rafter (PS 20-70)	NFPA-1978
Working Stresses for Joist and Rafters	NFPA-1977
Timber Construction Standards	AITC 100-1972
Design Specifications for Metal Plate Connected Wood Trusses	TPI-1978
Span Tables for Metal Plate Connected Wooden Trusses	TPI-1978
Mat-Formed Wood Particleboard	CS 236-66
Fire Safety	
Method of Test for Surface Burning Characteristics of Building Materials	ASTM-E84-1970 NFPA No.255-1972 ANSI A2.5-1970 UL 723-1971
Safety to Life from Fire in Building and Structures	NFPA No.101-1973 ANSI A9.1-1974
Standard for the Installation, Maintenance, and Use of Household Fire Warning Equipment	NFPA No 74-1974
Windows and Glazing	
Transparent Safety Glazing Material Used In Buildings	ANSI Z97.1-1974
Window Specifications for Utilization in Mobile and Factory-Built Homes	MHMA Spec. No 1-71 (Rev. 1973)
Metal Windows	ANSI A 134.1-1972 or equivalent
Wood Windows	NWMA IS-2 or equivalent
Metal Sliding Glass Doors	ANSI A 143.2-1972 or equivalent
Wood Sliding Glass Doors	NWMA IS-3 or equivalent
ASHRAE Handbook of Fundamentals 1977	1977
Building Code Requirements for Minimum Desgin Loads in Buildings and other Structures	ANSI A58.1-1972
Manufacture, Selection and Application of Asphalt Roofing and Siding Products-Asphalt Roofing Industry Bureau	

AA-The Aluminum Association, 750 Third Ave., New York, N.Y. 10017

AHA-American Hardboard Association, 20 North Wacker Drive, Chicago Illinois 60060

AISC-American Institute of Steel Construction, 101 Park Ave., New York, N.Y. 10017

AISI-American Iron and Steel Institute, 150 East 42nd St., New York, N.Y. 10017

AITC-American Institute of Timber Construction, 333 W. Hampden Ave., Englewood, Colorado 80110

ANSI-American National Standards Institute, 1430 Broadway, New York, N.Y. 10017

APA-American Plywood Association, P.O. BOX 11,700, Tacoma, Washington 98411

ASHRAE-American Society of Heating, Refrigeration and Air-Conditioning Engineers, 345 East 47th Street New York, N.Y. 10017

ASTM-American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103

AWS-American Welding Society, 2501 NW 7th Street, Miami, Florida 33125

MHMA-Mobile Homes Manufacturers Association, 14650 Lee Road, Chantilly, VA 22021

HPMA-Hardwood Plywood Manufacturer's Association,2310 S. Walter Reed Dr., P.O. Box 6246, Arlington, VA 22206

CS-Commercial Standards, available from Supt. of Documents, U.S. Government Printing Office, Washington, D.C. 20402

NFPA-National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210

FPA-National Forest Products Association, 1619 Massachusetts Ave., N.W., Washington, D.C. 20036

NPA-National Particleboard Association, 2306 Perkins Place, Silver Spring, MD 20910

PFS-PFS Corporation, Route 5, 2402 Daniels St., Madison, WI 53704

PS-Product Standard-available from Supt. of Documents, U.S. Government Printing Office, Washington, D.C. 20420

SJI-Steel Joist Institute, 2001 Jefferson Davis Highway, Arlington, VA 22202

TPI-Truss Plate Institute, 919 Eighteenth St., N.W. Washington, D.C. 20036

UL-Underwriters' Laboratories, Inc., 333 Pfingste Rd., Northbrook, Ill. 60062

USDC-United States Department of Commerce, Washington, D.C. 20234

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Renumbering from Table B-1 and amendment filed 7-25-75; designated effective 91-75 (Register 75, No. 30).
2. Renumbering from Appendix CC, and amendment filed 6-9-77; designated effective 9- 1-77 (Register 77, No. 24).
3. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

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*Supplements Nos. 1,2, and 3.

**Addendum.

***Supplement issued June 1978.

Appendix CC-2

Roof Coverings

Roof Coverings

Roof coverings shall be as specified in this Appendix.

Definitions. For the purpose of this Appendix, certain terms are designated as follows:

Base Sheets are one or more layers of felt of combination sheet over which is applied a cap sheet, organic or inorganic fiber shingles, smooth coating, or mineral aggregate.

Built-up Roof Covering is two or more layers of roofing consisting of base sheets, and cap sheet, mineral aggregate, smooth coating, or similar surfacing material.

Cap Sheet is roofing made of organic or inorganic fibers, saturated and coated on both sides with bituminous compound surfaced with miner granules, mica, talc, ilminite, asbestos or other inorganic fibers, or similar materials.

Combination Sheet is ply sheet integrally attached to kraft paper.

Composition roofing is any asphaltic roofing.

Corrosion–Resistant is any nonferrous metal, or any metal having an unbroken surfacing or nonferrous metal or steel not less than 10 percent chromium or with not less than 0.2 percent copper.

Felt is matted organic or inorganic fibers, saturated with bituminous compound.

Interlayment is a layer of felt not less than 18 inches wide shingled between each course of roof covering so that no felt is exposed to the weather.

Ply Sheet is glass fiber felt sheet coated on both sides with asphalt.

Prepared Roof Covering Material is any manufactured or processed roofing material as distinguished from built–up roof coverings.

Roofing Square is 100 square feet of roofing surface.

Spot–Cementing is discontinous application of hot asphalt, cold liquid asphalt compound, hot coal tar pitch or their approved cementing material.

Underlayment is one or more layers of felt applied as required for a base sheet, over which finish roofing is applied.

Wood Shakes are tapered or nontapered pieces of Western red cedar or redwood of random widths ranging from 4 inches to 14 inches, and of the following types:

1. Hand–split and resawn: tapered and having one sawed and one split face, 15 inches, 18 inches or 24 inches in length.

2. Taper–split: tapered and having both split faces, 24 inches in length.

3. Straight–split: nontapered and with both split faces either 18 inches or 24 inches in length.

4. Taper sawn redwood shakes–sawn both sides–edges sawn or split with edge variation not to exceed 1/8 inch permitted in the specified thickness. Lengths 24 inches and longer.

Wood Shingles are tapered pieces of Western red cedar or redwood, sawed both sides of random widths ranging from 3 inches to 14 inches and 16 inches, 18 inches or 24 inches in length.

Roofing material shall conform to the following:

1. Identification. All material shall be delivered in the original packages bearing the manufacturer's label.

Each package of prepared roofing and built–up roof covering materials shall bear the label of an approved testing laboratory having a service for the inspection of material and finished products during manufacture for such roofing material.

Each bundle of wood shakes, wood shingles and slate shingles shall bear the label of an approved inspection bureau or agency showing the grade and compliance with the applicable standard.

Asphalt or pitch shall be delivered in cartons indicating the name of the manufacturer and the softening point of the product. Bulk shipments shall be accompanied by a certification from the manufacturer.

2. Metal roofing. Metal roofing exposed to the weather shall be corrosion–resistant.

Corrugated or ribbed steel shall be not less than No. 30 galvanized sheet gauge.

Flat steel sheets shall be not less than No. 30 galvanized sheet gauge.

Flat nonferrous sheets and shingles shall not be less than No. 28 B & S gauge.

Application. Shingles and Shake Roofs. General Roofing shingles shall be applied to roofs with solid or spaced sheathing in accordance with the manufacturer's installation instructions, and as approved by the department. Where underlayment is specified, it shall be installed in one or more layers starting in the low spots toward the high spots with felts layed so that edges will shed water. Underlayments shall be applied as for base sheets.

1. Asphalt Shingles. Asphalt shingles shall be applied only to solidly–sheathed roofs in accordance with manufacturer's installation instructions. The minimum slope for asphalt shingle installation shall be in accordance with manufacturer's instructions and as approved by the department.

2. Wood Shingles. Wood shingles shall not be installed on slopes less than 4 inches to 12 inches unless they are installed over an underlay of not less than 15–pound felt, applied as required for a base sheet, and unless approved by the department.

3. Wood Shakes. Shakes shall not be installed on a roof having a slope less than 4 inches to 12 inches unless they are installed over an underlay of not less than 30–pound felt, applied as required for a base sheet, and unless approved by the department.

4. Asbestos Cement Shingles. Asbestos cement shingles may be installed on slopes as low as 3 inches to 12 inches where undelayment consists of two layers of 15– pound felt applied in shingle fashion. Asbestos cement shingles shall not be installed on a roof having a slope less than 3 inches to 12 inches unless installed per manufacturer's instructions and as approved by the department.

5. Metal shingles. Metal shingles shall be installed according to manufacturer's installation instructions. The minimum slope for metal shingles shall be in accordance with the manufacturer's instructions and as approved by the department.

6. Slate Shingles and Tiles. Slate shingles and tile shall be installed according to manufacturer's installation instructions. The minimum slope for slate shingles and tile shall be in accordance with the maufacturer's instructions, and as approved the department.

Other Roof Coverings. General. The following roof coverings shall be applied in accordance with the manufacturer's installation instructions.

1. Metal Roofing. Metal roofing shall be installed according to the manufacturer's installation instructions and as approved by the department.

2. Corrugated Asbestos Cement Roofing. Corrugated asbestos cement roofing shall be applied only to solidly–sheathed roofs. Corrugated asbestos cement roofing shall be installed according to the manufacturer's installation instructions and as approved by the department.

Built–Up Roofs. General. Built–up roofing shall be applied only to solidly–sheathed roofs. Built–up roofing shall be applied by starting at the low spots and working toward the ridges with felts and cap sheets applied in shingle fashion to drain water. Felt and cap sheets shall be applied in solid, uniform moppings of bitumen. Built–up roofing shall be applied in accordance with the manufacturer's instructions only clean, dry decks and as approved by the department.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18056.5, Health and Safety Code.

HISTORY

1. Numbering to Appendix CC–3 filed 6–9–77; (Register 77, No. 24).

2. Repealer of Appendix CC–2 and renumbering of Appendix CC–3 to Appendix CC–2 filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49). For history of former Appendix CC–2, see Register 75, No. 30 and Register 77, No. 24).

Subarticle 2. Electrical

§ 4380. Application and Scope.

The provisions of this article relating to electrical equipment and installations apply to all commercial coaches manufactured, After November 23, 1970, and sold, offered for sale, rented, or leased within this State. The provisions of this article are also applicable to the alteration or conversion of electrical equipment and installations in any commercial coach bearing or required to bear a department insignia of approval.

(a) Standards for Equipment and Installations. Standards for equipment and installations are listed in Appendix CC–E–1. Equipment and installations conforming to these standards or to other approved standards shall be considered acceptable by the department when listed or labeled and installed in accordance with the requirements of this article and the conditions of their approval, except where otherwise provided in this article.

(b) Electrical Standards. Electrical equipment and installations in or on a commercial coach shall be installed in accordance with the require-

ments of the National Electrical Code, 1978 edition, unless otherwise specifically exempted or required by this division.

NOTE: Authority cited: Sections 18028 and 18055, Health and Safety Code Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
2. Amendment of Section and NOTE filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
3. Amendment of subsection (b) filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4381. Definitions.

Definitions contained in the Health and Safety Code, Division 13, Part 2, in the National Electrical Code, 1978 edition, and the following definitions shall apply to this article.

Converter. A device which changes electrical energy from one form to another, as from alternating current to direct current.

Distribution Panelboard means a single panel or group of panel units designed for assembly in the form a single panel; including buses, and with or without switches and/or automatic overcurrent protective devices for the control of light, heat or power circuits of small individual as well as aggregate capacity; designed to be placed in a cabinet or cutout box placed in or against a wall or partition and accessible only from the front.

Dwelling Unit. One or more habitable room which are designed to be occupied by one family with facilities for living, sleeping cooking, eating and sanitation.

Feeder Assembly. The overhead or under-chassis feeder conductor, including the grounding conductor, together with the necessary fittings and equipment or a power-supply cord approved for mobile home use, designed for the purpose of delivering energy from the source of electrical supply to the commercial coach distribution panelboard.

Low Voltage. An electromotive force rated at 24 volts or less, supplied from a transformer, converter or battery.

N.E.C. When used in this article shall mean the National Electrical Code, 1978 edition.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment of section and repealer of Table 1 filed 9-7-73; effective thirtieth day thereafter (Register 75, No. 30). for history of former section, see Register 73, No. 36.
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4382. Standards for Equipment and Installations.

HISTORY

1. Amendment of section and repealer of Table 1 filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).

§ 4383. Low-Voltage Systems.

(a) Low-voltage circuits furnished and installed by the commercial coach manufacturer are subject to these regulations.

EXCEPTION: Vehicles containing only battery circuits of 24 volts or less supplying energy exclusively for the following are not subject to this subchapter:

(1) Illuminating lights when the vehicle contains no other systems such as plumbing, heating or electrical over 24 volts.

(2) Circuits supplying running lights, taillights, stop lights, electrical braking, or vehicle ignition systems.

(b) Wiring Materials

(1) Conductors. Copper conductors shall be used for low-voltage circuits.

(2) Insulation. Conductors shall conform to the requirements for Type HDT,SGT, or SGR, or Type SXL, or shall have insulation rated at least 60° C and a minimum wall thickness of 30 mils of thermoplastic insulation or equal.

NOTE: See SAE Standard J1128 for Types HDT and SXL, and SAE Standard J1127 for Types SGT and SGR, in the 1977 SAE Handbook.

(3) Single-Wire. Single-wire, low-voltage conductors shall be of the stranded type.

(c) Marking of Insulated Low-Voltage Conductors. All insulated low-voltage conductors shall surface marked at intervals no greater than four feet as follows:

(1) Listed conductors shall be marked as required by the listing agency.

(2) SAE conductors shall be marked with the name or logo of the manufacturer, specification designated and wire gauge.

(3) Other conductors shall be marked with the name or logo of the manufacturer temperature rating, wire gauge, conductor material, and insulation thickness.

(d) Low-Voltage Wiring Methods.

(1) Securing conductors. Conductors shall be protected against physical damage and shall be secured. Where insulated conductors are clamped to the structure, the conductor insulation shall be supplemented by an additional wrap or layer of equivalent material, except that jacketed cables need not be so protected. Wiring shall be routed away from sharp edges, moving parts or sources.

(2) Splicing or Joining Conductors. Conductors shall be spliced or joined with approved splicing devices or by brazing, welding, or soldering with a fusible metal or alloy. coldered splices shall first be so spliced or joined as to be mechanically and electrically secure without solder and then soldered. All splices, joints, and free ends of conductors shall be covered with an insulation equivalent to that on the conductors.

(3) Separation of Circuits. Battery and direct-current circuits shall be physically separated by at least 1/2-inch gap or other approved means, from circuits of a different power source. Acceptable methods shall be by clamping, routing, or equivalent means which insure permanent total separation. Where circuits of different power sources cross, the external jacket of the nonmetallic sheathed cables shall be deemed adequate separation.

(4) Ground Terminals. Ground terminals shall be accessible for service. The surface on which ground terminals make contact shall be cleaned and fee from oxide or paint, or shall be electrically connected through use of a cadmium, tin or zinc plated external to other lockwasher or lock-ring terminals. Ground terminal attaching screws, rivets or bolts, nuts and lockwashers shall be cadmium, tin or zinc plated, except rivets shall be permitted to be unanodized aluminum when attaching to aluminum structures.

(e) Battery Installations. Storage batteries subject to the provisions of this Article shall be securely attached to the vehicle and installed in an area vapor-tight to the interior and ventilated directly to the exterior of the vehicle. When batteries are installed in a compartment the compartment shall be ventilated with openings having a minimum area of 1.7 square inches (11 cm^2) at both the top and at the bottom. Batteries shall not be installed in a compartment containing spark or flame producing equipment except that they shall be permitted to be installed in the engine generator compartment if they only charging source is from the engine generator.

(f) Exterior Lighting Circuits. Metal chassis or frame may be used as the return path for exterior lighting circuits Terminals for connection to the chassis or frame shall be of the solderless type and approved for the size and type of wire used. Mechanical connections to the frame or chassis shall be made secure.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4384. Overcurrent Protection, Low-Voltage Circuit Wiring.

(a) Rating of Overcurrent Protective Devices. Low-voltage circuit wiring shall be protected by overcurrent protective devices rated not in excess of the ampacity of copper conductors, as follows:

Wire Size	*Ampacity*	*Wire Type*
18	6	Stranded only
16	8	Stranded only
14	15	Stranded or solid
12	20	Stranded or solid
10	30	Stranded or solid

NOTE: For other allowable conductor ampacities, refer to the National Electrical Code (NFPA 70–1978 (ANSI), Table 310–16.

(b) Circuit–Breakers or Fuses. Circuit–Breakers or fuses shall be of the approved type, including automotive types. Fuseholders shall be clearly marked with maximum fuse size.

NOTE: For further information see Society of Automotive Engineers (SAE) Standard for Electric Fuses (SAE J554a–1973; ANSI C118.1–1973) and Underwriters Laboratories Inc., Standard for Automotive Glass Tube Fuses (UL 275B–1973).

(c) Higher Current–Consuming Direct–Current Appliances. Higher current–consuming direct– current appliances such as pumps, compressors, heater blowers and similar motor–driven appliances shall be installed in accordance with the manufacturer's instructions. Motors which are controlled by automatic switching or by latching–type manual switches shall be protected in accordance with Section 430–32 (c) of the National Electrical Code (NFPA 70–1978 (ANSI)).

(d) Location of Overcurrent Protective Device. The overcurrent protective device shall be installed in an accessible location on the vehicle within 18 inches (457 mm) of the point where the power supply connects to the vehicle circuits. If located outside the vehicle, the device shall be protected against weather and physical damage.

EXCEPTION: External low voltage supply shall be permitted to be fused within 18 inches (457 mm) after entering the vehicle or after leaving a raceway.

(e) Switches, Low–Voltage Circuits. Switches shall have a direct current rating not less than the connected load.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. New Section Filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4385. Equipment and Fixtures, Low–Voltage.

(a) Incandescent Lighting Fixtures. All incandescent low–voltage interior lighting fixtures shall be listed.

(b) Cigarette Lighter Receptacles. Twelve (12) volt receptacles that will accept and energize cigarette lighters shall be installed in a noncombustible outlet box.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4386. Circuit Overcurrent Protection.

HISTORY

1. Repealer filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).

§ 4387. Combination Electrical Systems.

(a) General. Vehicle wiring suitable for connection to a battery or direct–current supply source shall be permitted to be connected to a 115–volt source provided that the entire wiring system and equipment are rated and installed in full conformity to the requirements of this Article covering 115–volt electrical systems. Circuits fed from alternating current transformers shall not supply direct–current appliances.

(b) Voltage Converters (115–Volt Alternating Current to Low–Voltage Direct Current). The 115–volt alternating current side of the voltage converter shall be wired in full conformity with requirements for 115–volt electrical systems.

EXCEPTION: Converters supplied as an integral part of an approved appliance shall not be subject to the above.

All converters and transformers shall be listed for use in recreational vehicles and designed or equipped to provide over–temperature protection. To determine the converter rating, the following formula shall be applied to the total connected load, including average battery charging rate, of all 12–volt equipment:

The first 20 amperes of load at 100 percent, plus
the second 20 amperes of load at 50 percent, plus
all load above 40 amperes at 25 percent.

(c) Dual–Voltage Fixtures or Appliances. Fixtures or appliances having both 115–volt and low–voltage connections shall be listed or approved for dual voltage.

(d) Autotransformers. Autotransformers shall not be used.

(e) Receptacles and Plug Caps. When a vehicle is equipped with a 120–volt or 120/240–volt alternating–current system and/or a low–voltage system, receptacles and plug caps of the low–voltage systems shall differ in configuration from those of the 120– or 120/240–volt system. When a vehicle equipped with a battery or direct–current system has an external connection for low–voltage power, the receptacle shall have a configuration that will not accept 120–volt power.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4388. Identification.

HISTORY

1. Repealer filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).

§ 4389. Fuel–Fired Engine Driven Generator Units.

(a) Certification. All fuel–fired engine driven generators shall be investigated and listed in accordance with nationally recognized standards by an approved testing agency. (See Appendix CC–E, Table CC–E–1)

(b) Installation. Fuel–fired engine driven generators shall be installed in accordance with the equipment manufacturers installation instructions and these regulations. A copy of the installation instructions shall be provided in the vehicle.

(c) Mounting. Generator units shall be mounted in a manner so that adequate structural support from the vehicle frame, is provided for the equipment. The equipment shall be secured in place by a method that will preclude displacement from vibration and road shock.

(d) Compartment Separation. Generator unit compartments shall be designed and installed to provide a vapor–tight separation between the compartment and the interior living areas of the vehicle.

(e) Compartment Construction. Generator unit compartments shall be constructed of galvanized steel, not less than 0.0299 inch (0.759 mm) thick. Seams and joints shall be lapped, mechanically secured and made airtight to the interior of the vehicle. Alternate materials and methods of construction may be used if they provide equivalent quality, strength, effectiveness, fire resistance, durability and safety.

(f) Compartment Penetration. Fuel–fired engine exhaust systems, fuel–supplies, electrical conduit, cables, conductors and equipment shall not penetrate any area of the compartment that separates the compartment from the interior of the vehicle. Electrical conduit, cables and conductors penetrating the compartment in areas other than those that separate the compartment from the interior of the vehicle, shall be protected by the use of tight fitting grommets.

(g) Compartment Ventilation. Compartments shall be provided with ventilation. The type, amount and location of compartment ventilation shall be provided in accordance with the equipment manufacturer's installation instructions.

(h) Exhaust Systems. Except as provided by the equipment manufacturer's installation instructions, fuel–fired engine exhaust systems shall be separated a minimum of 1 1/2 inches from any combustible material or insulated or shielded so that it does not raise the temperature of any combustible material to more than 194° F (90° C).

Exhaust systems shall be provided with an effective spark arrester and shall not terminate adjacent to the vehicle gasoline filler spout. Exhausts shall terminate beyond the periphery of the vehicle.

(i) Generator Protection. Generators shall be mounted in a manner to provide an effective bond to the vehicle chassis. Listed equipment shall be installed to ensure that the current-carrying conductors from the generator and from an outside source are not connected to the vehicle circuits at the same time.

(j) Supply Conductors. Supply conductors from a generator to a junction box or distribution panelboard shall be of the stranded type installed in flexible metal conduit or equivalent mechanical protection.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055 and 18058, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4390. Dual Supply.

(a) Where a dual-supply system, consisting of a generator and provisions for connecting to an outside source is installed, the feeder from the generator shall be protected by an overcurrent protective device.

(b) The two supply sources shall not be required to be of the same capacity.

(c) If the AC generator source exceeds 30 amperes, 115 volts, it shall be permissible to wire either as a 115-volt system or a 115/230-volt system, provided an overcurrent protective device of the proper rating is installed in the feeder circuit.

(d) The external power-supply assembly shall be permitted to be less than the calculated load but not less than 30 amperes and shall have overcurrent protection not greater than the capacity of the external power-supply assembly.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4391. Distribution Panelboard.

(a) Each vehicle shall have an appropriately rated branch circuit panelboard, and when required, a main disconnect shall be installed.

(b) Panelboards shall be of the dead front type and shall have one or more circuit breakers or Type S plug fuses. A main disconnecting means shall be provided where fuses are used, or when required by Article 230 of the N.E.C.

(c) The panelboard shall be installed in a readily accessible location with at least 30 inches clear horizontal working space directly in front of the panelboard. The bottom of the panelboard shall be not less than 24 inches above the floor of the coach unless the equipment is specifically approved for the purpose.

(d) The main circuit breakers or fuses, when installed, shall be plainly marked "Main." Branch and feeder circuits at the point of origin shall be legibly marked to indicate their purpose.

(e) If a fused branch circuit panelboard is used, the maximum fuse size for the mains shall be plainly indicated in a visible location with lettering at least one-fourth inch high.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4392. Circuit Breakers and Fuses.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4393. Feeder Assembly Equipment.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4394. Identification of Electrical System.

Each commercial coach shall have a label permanently affixed on or adjacent to the distribution panelboard indicating the voltage and calculated load of the electrical system in the vehicle.

NOTE: See Article 1, Section 4031 for label size and type of material.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4395. Conductors in Outlet Boxes.

HISTORY

1. Repealer filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).

§ 4396. Wiring of Expandable or Multiple Units.

Expandable or multiple units shall have permanent type wiring methods and materials used for connecting such units to each other.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4397. Outdoor or Underchassis Wiring, 115-Volts or Over.

Where outdoor or underchassis wiring is 115-volt (nominal) or over and is exposed to moisture or mechanical damage, the wiring shall be protected by rigid metal conduit, intermediate metal conduit, or by electrical metallic tubing that is closely routed against frames and equipment enclosures.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4398. Rodent Resistance.

All exterior openings around wiring, conduit, cable, boxes and equipment shall be sealed to resist the entrance of rodents.

§ 4399. Lighting Fixtures.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4400. Equipment Mounting.

Electrical equipment shall be securely mounted to prevent displacement during transit.

§ 4401. Outdoor Outlets, Fixtures, Air-Cooling Equipment, Etc.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4402. Grounding.

(a) Grounding of both electrical and nonelectrical metal parts in a commercial coach shall be through connection to a grounding bus in the ve-

hicle distribution panelboard. The grounding bus shall be grounded to the service ground in the service-entrance equipment located adjacent to the vehicle location. Neither the frame of the vehicle nor the frame of any appliance shall be connected to the neutral conductor in the commercial coach.

(b) The grounded (neutral) circuit terminals in the distribution panels and in ranges, clothes dryers, counter-mounted cooking units, and wall-mounted ovens shall be insulated from the equipment enclosure. Bonding screws, straps, or buses in the distribution panelboard or in appliances shall be removed and discarded.

Connections of ranges and clothes dryers with 115/230 v, 3-wire ratings shall be made with 4-conductor cord and 3-pole, 4-wire grounding-type plugs, or by Type AC metal clad cable or conductors enclosed in flexible metal conduit.

For 115-v rated devices, a 3-conductor cord and 2-pole, 3-wire grounding-type plug may be used.

(c) Equipment Grounding Means.

(1) In the electrical system, all exposed metal parts, enclosures, frames, lamp fixture canopies, etc., shall be effectively bonded to the grounding terminal or enclosure of the distribution panelboard.

(2) Cord-connected appliances shall be grounded by means of an approved cord with grounding conductor and grounding-type attachment plug.

(d) Bonding of Noncurrent-carrying Metal Parts.

(1) All exposed noncurrent-carrying metal parts that may become energized shall be effectively bonded to the grounding terminal or enclosure of the distribution panelboard. A bonding conductor shall be connected between each distribution panelboard and an accessible terminal on the chassis.

(2) Grounding terminals shall be of the solderless type and approved as pressure-terminal connectors recognized for the wire size used. The bonding conductor shall be solid or stranded, insulated or bare, and shall be No. 8 copper minimum or equal. The bonding conductor shall be routed so as not to be exposed to physical damage.

(3) Metallic gas, water, and waste pipes and metallic air circulating ducts shall be considered bonded if they are connected to the terminal on the chassis by clamps, solderless connectors, or by suitable grounding-type straps.

(4) Any metallic roof and exterior covering shall be considered bonded if the metal panels overlap one another and are securely attached to the wood or metal frame parts by metallic fasteners and if the lower panel of the metallic exterior covering is secured by metallic fasteners at a cross member of the chassis by two metal straps per vehicle unit at opposite ends. The bonding strap material shall be a minimum of 4 inches in width, of material equivalent to the metal siding or material of equal or better electrical conductivity. The straps shall be fastened with paint-penetrating fittings such as screws and star washers or equivalent approved for the purpose.

NOTE: Authority cited: Section 18022, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4403. Grounded Conductor (Neutral).

HISTORY

1. Repealer filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).

§ 4404. Receptacle Outlets Requiring Ground-Fault Circuit Protection.

Where provided, each 120 volt, single-phase, 15 or 20 ampere receptacle outlet shall have ground-fault circuit protection for personnel in the following locations:

(a) Adjacent to a bathroom lavatory. (The receptacle outlet shall be a minimum of 30 inches, (762 MM) from the compartment floor).

(b) Adjacent to any lavatory.

(c) In an area occupied by a toilet, toilet and/or shower, or toilet and tub-shower enclosure. (A receptacle shall not be installed in a bathtub, shower or combination bathtub-shower compartment).

(d) On the exterior of the vehicle.

NOTE: Authority cited: Section 18022, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36.).
2. New section filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4405. Grounding of Noncurrent-Carrying Metal Parts.

HISTORY

1. Repealer filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).

§ 4406. Switch and Receptacle Plates.

NOTE: Authority cited: Section 18022, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4407. Lighting Standards for Energy Conservation.

(1) Each area enclosed by ceiling-height partitions shall have independent control of the lighting within that area.

(2) All switching devices used to control lighting within an area shall be readily accessible to personnel occupying that area.

(3) For all areas larger than 100 square feet, the connected lighting load shall be so controlled that the overall illumination may be reduced by at least one half in a uniform pattern. The maximum area that may be controlled by any two switching devices shall be limited to that area which can be served by two (2) 20 ampere single pole circuits, loaded to no more than 80 percent.

NOTE: Authority cited: Section 18022, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4409. Testing. Dielectric Strength Test.

(a) The wiring of each commercial coach shall be subjected to a 1-minute, 900-volt, dielectric strength test (with all switches closed) between live parts (including neutral) and the commercial coach ground. Alternatively, the test may be performed at 1,080 volts for 1 second. This test shall be performed after branch circuits are complete and after fixtures or appliances are installed.

EXCEPTION: Fixtures or appliances which are approved shall not be required to withstand the dielectric strength test. The test transformer shall be adjustable to permit testing at 900 and 1,080 volts and shall have a rating of at least 50 volt amperes. The test should be performed starting at 0, and the applied potential shall be increased gradually (in at least four steps) until either the test value is reached or breakdown occurs.

(b) 480 Volts. Each commercial coach designed with a 480-volt electrical system shall be subjected to a one-minute 1,275-volt dielectric strength test between current carrying conductors and the coach ground. Alternatively, the test may be performed at 1,500 volts for one second.

(c) Low-Voltage Circuits. Low-voltage circuit conductors in each commercial coach shall withstand the applied potential without electrical breakdown of a one-minute, 500-volt or a one-second, 600-volt dielectric strength test. The potential shall be applied between live and grounded conductors.

NOTE: The test may be performed on running light circuits before the lights are installed provided the vehicles outer covering and interior cabinetry has been secured. The braking circuit may be tested before being connected to the brakes provided the wiring has been completely secured.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).

Appendix CC-E-1

Table CC-E-1
Standards for Electrical Equipment and Appliances

Equipment and Appliances	*UL Standards**	*Other*
Equipment		
Air Conditioners, Central Cooling	465-1978	
Armored Cable	4-1974	
Attachment Plugs & Receptacles	498-1974	
Ballasts, Fluorescent-Lamp	935-1978	
Battery Chargers	1236-1972	
Cabinets and Boxes	50-1975	
Circuit Breakers, Branch-Circuit & Service	489-1972	
Cleats, Knobs & Tubes, Porcelain	511-1975	
Clothes Washing Equipment, Electric	1206-1974	
Compactors, Trash, Household	1086-1976	
Conduit, Flexible Metal	1-1973	
Conduit, Liquid-tight, Flex. Steel	360-1976	
Conduit, Rigid Metallic	6-1976	
Conduit, Rigid Nonmetallic	651-1972	
Cooking Appliances, Commercial Electric	197-1978	
Cord Reels	355-1973	
Cord Sets & Power-Supply Cords	817-1977	
Dishwashers, Commercial	921-1973	
Disposers, Waste	430-1970	
Dry Cleaning Machines, Commercial	664-1974	
Electrical Metallic Tubing	797-1977	
Emergency Lighting and Power Equipment	924-1977	
Engine Generator Assemblies	1248-1978	ANSI-A198.1-1976
Fans, Electric	507-1972	
Fixtures, Electric Lighting	57-1972	CSA-C22.2, #9.1-1954
Fixtures, Electric, Hazardous Locations	844-1972	
Flexible Cord & Fixture Wire	62-1978	
Fuseholders	512-1975	
Ground-Fault Circuit Interrupters	943-1972	
Grounding & Bonding Equipment	467-1972	
Heaters, Electric	1025-1973	
Heaters, Hazardous Location	823-1977	
Heating Appliances	499-1972	
Heating Equipment, Baseboard	1042-1972	
Heating Equipment, Central Air	1096-1973	
Heating Equipment, Commercial	795-1973	
Home Laundry	560-1972	
Ice Cream Makers	621-1977	
Ice Makers	563-1975	
Industrial Control Equipment	508-1971	
Lampholders, Edison-Base	496-1975	
Lampholders, Starters & Starter Holders for Fluorescent Lamps	542-1974	
Microwave Cooking Appliances	923-1977	
Motor Operated Appliances	73-1972	
Motors and Generators	674-1973	
Motor	1004-1977	
Nonmetallic-Sheathed Cables	719-1974	
Office Appliances and Equipment	114-1976	
Panelboards	67-1974	
Power Converters and Systems	458-1977	
Power Supplies	1012-1976	
Pumps, Heat	559-1975	
Raceways & Fittings, Surface Metal	5-1978	
Ranges	858-1974	
Refrigeration Units	427-1976	
Refrigerators & Freezers, Commercial	471-1978	
Service Entrance Cables	854-1975	
Service Equipment	869-1977	
Smoke Detectors, Photoelectric	168-1976	
Smoke Detectors, Single & Multiple Station	217-1976	
Switchboard		
Switches Enclosed	98-1974	
Switches, Snap	20-1974	
Switches, Special Use	1054-1977	
Tape, Insulating	510-1976	
Transformers, Specialty	506-1977	
Tubing, Flexible Nonmetallic	3-1975	
Vacuum Cleaning Machines	1017-1973	
Vending & Amusement Machines	751-1978	
Vending Machines, Refrigerated	541-1974	
Ventilators, Power	705-1977	
Water Coolers	399-1972	
Water Heaters	174-1977	
Wire Connectors & Soldering Lugs	486-1976	
Wires & Cables, Rubber Insulated	44-1977	
Wires & Cables, Varnished Cloth	133-1976	
Wires, Asbestos & Asbestos Varnished-Cloth Insulated	115-1976	
Wires, Thermoplastic Insulated	83-1975	
Wireways, Auxiliary Gutters & Associated Fittings	870-1977	
X-Ray Equipment	187-1974	

Notes to Table

ANSI: American National Standards Institute, 1430 Broadway, New York, New York 10017.

Canadian Standards Association Building & Vehicular Products Division, 178 Rexdale Blvd., Rexdale, Ontario, Canada M9W 1R3.

NOTE: Authority Cited: Section 18022, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Renumbering from Table E-1 filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
2. Renumbering from Appendix CC-E filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
3. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

Subarticle 3. Mechanical

§ 4414. Application and Scope.

The provisions of this article relating to mechanical equipment and installations apply to all commercial coaches manufactured after November 23, 1970, and sold, offered for sale, rented or leased within this State. The provisions of this article are also applicable to the alteration or conversion of mechanical equipment and installations in any commercial coach bearing or required to bear a department insignia of approval.

(a) Standards for Equipment and Installations. Standards for equipment and installations are listed in Appendix CC-M-1, Table CC-M-1 of this division. Equipment and installations conforming to these standards or to other approved standards shall be considered acceptable by the department when listed or labeled and installed in accordance with the requirements of this article and the conditions of their approval except where otherwise provided in this article.

(b) Mechanical Standards. Heat-producing appliances and comfort-cooling equipment shall be installed in accordance with the requirements of this article.

NOTE: Authority cited: Section 18055, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
2. Amendment of section and NOTE filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).

§ 4415. Definitions.

Definitions contained in the Health and Safety Code, Division 13, Part 2 and the following definitions shall apply to this article.

Absorption Unit. A factory-built assembly of component parts designed to produce refrigeration for comfort cooling or comfort heating by the application of heat.

(a) Direct absorption unit is a unit in which the refrigerant evaporator is in direct contact with the air to be conditioned.

(b) Indirect absorption unit is a unit in which the refrigerant evaporator is not in direct contact with the air to be conditioned. Accessible. When applied to a fixture, connection, appliance or equipment, shall mean having access thereto, but which may require the removal of an access panel, door or similar obstruction.

Air-Conditioning or Comfort-Cooling Equipment. All of that equipment intended or installed for the purpose of processing the treatment of air so as to control its temperature, humidity, and distribution to meet the requirements of the conditioned space.

Air-Handling Unit. A blower or fan used for the purpose of distributing conditioned air to a room or space.

Anti-Flooding Device. A primary safety control which causes the liquid fuel flow to be shut off upon a rise in fuel level or upon receiving ex-

cess fuel, and which operates before a hazardous discharge of fuel can occur.

Appliance is a device which utilizes fuel or other forms of energy to produce light, heat, power, refrigeration or air conditioning. This definition also shall include a vented decorative appliance.

Automatic Pilot Device. A device employed with gas-burning equipment that will either automatically shut off the gas supply to the burner(s) being served or automatically actuate, electrically or otherwise, a gas shutoff device when the pilot flame is extinguished.

Automatic Pump (Oil Lifter). A pump, not an integral part of the oil-burning appliance, that automatically pumps oil from the supply tank and delivers the oil by gravity under a constant head to an oil-burning appliance.

BTU. British thermal unit. The quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

BTUH. British thermal units per hour.

Chimney, Factory-Built. A chimney consisting entirely of factory-made parts, each designed to be assembled with the others without requiring field construction.

Commercial Food and Heat-Processing Equipment. Equipment and appliances used for food preparation and processing in retail and manufacturing establishments.

Combustible Material. Materials made of or surfaced with wood, compressed paper, plant fibers or other materials that will ignite and burn, even though flameproofed, fire-retardant treated or plastered.

Compressor. A specific machine, with or without accessories, for compressing a given refrigerant vapor.

Condenser. A vessel or arrangement of pipe or tubing in which vaporized refrigerant is liquefied by the removal of heat.

Condensing Unit. A specific refrigerating machine combination for a given refrigerant, consisting of one or more power-driven compressors, condensers, liquid receivers (when required) and the regularly furnished accessories.

Connector-Gas Appliance. A flexible or semi-rigid connector listed as conforming to ANSI Standard Z21.24, Metal Connectors for Gas Appliances, used to convey fuel gas, three feet or less in length (six feet or less for gas ranges), between a gas outlet and a gas appliance in the same room with the outlet.

Dampers include:

Fire Damper is a damper arranged to seal off air flow automatically through part of an air duct system, so as to restrict the passage of heat.

Smoke Damper is a damper arranged to seal off air flow automatically through a part of an air duct system, so as to restrict the passage of smoke.

Volume Damper is any device which when installed will restrict, retard or direct the flow of air in any duct, or the products of combustion in any heat-producing equipment, its vent connector, vent or chimney therefrom.

Direct Gas-Fired Make-Up Air Heater is a heater in which all the products of combustion generated by the gas-burning device are released into the outside air stream being heated.

Direct System is one in which the evaporator is in direct contact with the material or space refrigerated, or is located in air-circulating passages communicating with such spaces.

Direct Vent appliances are appliances which are constructed and installed so that all air for combustion is derived from the outside atmosphere and all flue gases are discharged to the outside atmosphere.

Draft Hood is a device built into an appliance, or made a part of the vent connector from an appliance, which is designed to:

1. Assure the ready escape of the flue gases in the event of no draft, back draft, or stoppage beyond the draft hood.

2. Prevent a back draft from entering the appliance.

3. Neutralize the effect of stack action of the chimney or gas vent upon the operation of the appliance.

Duct. Tube or conduit for conveying air to or from air conditioning or comfort-cooling equipment.

Class 0 Air Ducts. Air duct materials and connectors having a fire-hazard classification of zero.

Class 1 Air Ducts. Ducts of materials and connectors having a flame-spread rating of not over 25 without evidence of continued progressive combustion and a smoke-developed rating of not over 50.

Class 2 Air Ducts. Ducts of materials and connectors having a flame-spread rating of not over 50 without evidence of continued progressive combustion and a smoke-developed rating of not over 50 for the inside surface and not over 100 for the outside surface.

Evaporative Cooler is a device used for reducing the sensible heat of air for cooling, by the process of evaporation of water into an air stream.

Evaporator. That part of the system in which liquid refrigerant is vaporized to produce refrigeration.

Expansion Coil. An evaporator constructed of pipe or tubing.

Fuel Gas Piping System. The arrangement of piping, tubing, fittings, connectors, valves and devices designed and intended to supply or control the flow of fuel gas to the appliance(s).

Fuel Oil Piping System. The arrangement of piping, tubing, fittings, connectors, valves and devices designed and intended to supply or control the flow of fuel oil to the appliance(s).

Furnace—Central Furnace. A self-contained appliance for heating air by transfer of heat to the air, and designed to supply heated air through ducts to spaces remote from or adjacent to the appliance location.

a. Gravity Type Central Furnace. A central furnace depending primarily on circulation of air by gravity.

b. Gravity Type Central Furnace with Integral Fan. A central furnace equipped with a fan or blower as an integral part of its construction and operable on gravity systems only. The fan or blower is used only to overcome the internal furnace resistance to air flow.

c. Gravity Type Central Furnace with Booster Fan. A central furnace equipped with a booster fan which does not materially restrict free circulation of air by gravity flow when the fan is not in operation.

d. Forced Air Type Central Furnace. A central furnace equipped with a fan or blower which provides the primary means for circulation of air.

1. Horizontal Type Central Furnace. A furnace designed for low headroom installation with air flow through the appliance essentially in a horizontal path.

2. Upflow Type Central Furnace. A furnace designed with air flow essentially in a vertical path, discharging air at or near the top of the furnace.

3. Downflow Type Central Furnace. A furnace designed with air flow essentially in a vertical path, discharging air at or near the bottom of the furnace.

Gas. Fuel gas, such as natural gas, manufactured gas, undiluted liquefied petroleum gas (vapor phase only), liquefied petroleum air-gas mixtures or mixtures of these gases which would ignite in the presence of oxygen.

Gas-Supply Connection. The terminal end of the gas-piping system to which a gas-supply connector is attached.

Heating System. A warm-air heating plant consisting of a heat exchanger enclosed in a casing, from which the heated air is distributed through ducts to rooms and areas. A heating system includes the circulating air and conditioned air supply and all accessory equipment installed in connection therewith.

Heat-Producing Appliance. A heating or cooking appliance utilizing fuel or energy.

High Side. The parts of a refrigerating system under condenser pressure.

Hood. Is any air-intake device connected to a mechanical exhaust system for collecting vapors, fumes, smoke, dust, steam, heat or odors from, at or near the equipment, place or area where generated, produced or released.

Industrial Heating Equipment is any appliance, device or equipment used, or intended to be used, in an industrial, manufacturing, or commercial occupancy for applying heat to any material being processed, but

shall not include water heaters, boilers or portable equipment used by artisans in pursuit of a trade.

Input Rating. The maximum fuel-burning capacity of any warm-air furnace, heater or burner expressed in British thermal units per hour.

Liquefied Petroleum Gases. "Liquefied petroleum gases," "LPG" and "LP-Gas" is any material which is composed predominantly of any of the following hyrocarbons, or mixtures of them: Propane, propylene, butanes (normal butane or isobutane) and butylenes.

Low Side. The parts of a refrigerating system under evaporator pressure.

Plenum. An air compartment which is part of an air-distributing system to which one or more ducts are connected.

a. Furnace-supply plenum is a plenum attached directly to, or an integral part of, the air-supply outlet of the furnace.

b. Furnace-return plenum is a plenum attached directly to or an integral part of, the return inlet of the furnace.

Quick-Disconnect Device. A hand-operated device which provides a means for connecting and disconnecting an appliance or an appliance connector to a gas supply and which is equipped with an automatic means to shut off the gas supply when the device is disconnected.

Readily Accessible means capable of being reached safely and quickly for operation, repair, or inspection without requiring those to whom ready access is requisite to climb over, or remove obstacles, or to resort to the use of portable access equipment.

Refrigerant. A substance used to produce refrigeration by its expansion or vaporization.

Refrigerating System. A combination of interconnected refrigerant-containing parts constituting one closed refrigerant circuit in which a refrigerant is circulated for the purpose of extracting heat.

Roof Jack. That portion of a heater flue or vent assembly, including the cap, insulating means, flashing and ceiling plate, located in and above the roof.

Vent is a listed factory-made vent pipe and vent fittings for conveying products of combustion from a fuel-burning appliance to the outside atmosphere.

Vent Connector. Any pipe for conveying products of combustion from a fuel-burning appliance to a vent.

Ventilation System is all of that equipment intended or installed for the purpose of supplying air to, or removing air from, any room or space by mechanical means, other than equipment which is a portion of any environmental heating, cooling, absorption or evaporative cooling system.

Water Heater. An appliance designed primarily to supply hot water and is equipped with automatic controls limiting water temperature to a maximum of 210° F.

NOTE: Authority cited: Section 18022, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4417. General.

HISTORY

1. Repealer filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).

§ 4418. Standards for Equipment and Installations.

HISTORY

1. Amendment of section and repealer of Table 1 filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).

§ 4420. LPG, Construction and Marking of Containers.

Containers shall be constructed and marked in accordance with the specifications for LP-Gas containers of the U.S. Department of Transportation (DOT) or the Rules for Construction of Unfired Pressure Vessels, Section VIII, Division 1, ASME Boiler and Pressure Vessel Code. ASME containers shall have a design pressure of not less than 312.5 psig.

HISTORY

1. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).

§ 4421. Location and Installation of Containers and Systems.

(a) No LP-gas container shall be installed, or provision made for installing or storing, even temporarily, inside any commercial coach, except for listed, completely self-contained hand torches, lanterns, or similar equipment with containers having a maximum water capacity of not more than two and one-half pounds (approximately one pound LPG capacity).

(b) Where provided, containers, control valves and regulating equipment shall be mounted on the hitch, installed in a single compartment that is vapor-tight to the inside of the commercial coach and accessible only from the outside or mounted on the frame. Compartments shall be constructed of galvanized steel, not less than 0.0299 inch (0.759 mm) thick. Seams and joints shall be lapped, mechanically secured and made airtight to the interior of the vehicle. Alternate materials and methods of construction may be used if they provide equivalent quality, strength, effectiveness, fire resistance, durability and safety.

Fuel-gas tubing from the gas-supply connection may pass through the wall, floor or ceiling of the compartment. Where such tubing passes through any wall, floor or ceiling, such tubing shall be protected by the use of bulkhead fittings or equivalent devices which shall snugly fit both the tubing and the hole in the compartment through which the tubing passes.

(c) Containers and container carriers shall be securely mounted on the vehicle, or within the compartment and located and installed so as to minimize the possibility of damage to containers, their appurtenances or contents as follows:

(1) Containers shall be installed with as much road clearance as practicable but not less than the minimum road clearance of the vehicle under maximum spring deflection. This clearance shall be measured to the bottom of the container, or to the lowest fitting, support or attachment on the container or container housing, whichever is lower.

(2) Fuel containers and container carriers shall be securely mounted to prevent jarring loose and slipping or rotating, and the fastenings shall be designed and constructed to withstand without permanent visible deformation static loading in any direction equal to four times the weight of the container filled with fuel. When containers are mounted within a vehicle, the securing of the container to the vehicle shall comply with this provision. Any hoods, domes or removable portions of the housing or cabinet shall be provided with means to keep them firmly in place in transit.

(3) All container valves, appurtenances and connections shall be adequately protected to prevent damage due to accidental contacts with stationary objects, from loose objects, stones, mud, or ice, thrown up from the ground or floor, and from damage due to overturn or similar vehicular accident. In the case of permanently mounted containers, this provision may be met by the location on the vehicle, with parts of the vehicle furnishing the protection. On portable (removable) containers the protection for container valves and connections shall be permanently attached to the container.

(d) Access to a compartment containing LP-gas tanks or cylinders shall be by a door or opening in the exterior wall of the commercial coach.

Access doors or panels of compartments shall not be equipped with locks or require special tools or knowledge to open. The compartment shall be ventilated with two vents having an aggregate area of not less than two percent of the floor area of the compartment and shall open unrestricted to the outside atmosphere. The required vents shall be equally distributed between the floor and ceiling of the compartment. If the bottom vent is located in the access door or wall, it shall not be located above the floor level of the compartment. The top vent shall be located in the access door or wall with the bottom of the vent not more than 12 inches below the ceiling level of the compartment. All vents shall have an unrestricted discharge to the outside atmosphere.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment of subsections (b) and (c) filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4422. Container Valves and Accessories.

(a) Containers and safety relief valves located less than 18 inches (457 mm) from any component of an internal combustion engine exhaust system shall be shielded by a vehicle frame member or by a noncombustible baffle to dissipate radiated or convected heat with an air space on both sides of the frame member or baffle.

(b) Listed two–stage regulators shall be supplied. Such regulators shall have a capacity not less than the total input of all LP–Gas appliances installed in the vehicle. Provisions shall be made for securely mounting the regulator by attaching it to the container valve, container, supporting standard, or vehicle wall. If the regulator is not mounted by the vehicle manufacturer, instructions for proper installation shall be provided. Regulators shall be installed so the regulator vent opening will not be affected by the elements such as by sleet, snow, freezing rain, ice, mud or by wheel spray.

(c) A listed LP–Gas excess flow valve shall be provided in accordance with the following:

1. The inlet or outlet of each service valve of a permanently mounted container shall be equipped with such a listed excess flow valve or a listed POL adapter with an integral excess flow valve.

2. Vehicles having removable (DOT) type containers shall have furnished or installed a listed POL adapter with an integral listed excess flow valve.

NOTE: Authority cited: Section 18022, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4423. LP–Gas Container Safety Relief Devices.

(a) DOT containers shall be provided with safety relief devices as required by the regulations of the U. S. Department of Transportation. ASME containers shall be provided with relief valves in accordance with Subsection 221 of the Standard for the Storage and Handling of Liquefied Petroleum Gases (NFPA No. 58–1976 (ANSI)). Safety relief valves shall have direct communication with the vapor space of the vessel.

(b) Final stage regulators shall be equipped on the low pressure side with one or both of the following:

(1) A relief valve having a start–to–discharge pressure setting of not less than 1.7 times and not more than 3 times the delivery pressure of the regulator.

(2) A shutoff device that shuts the gas off at the inlet side when the downstream pressure reaches the overpressure limits of not less than 1.7 times and not more than 3 times the delivery pressure of the regulator. Such a device shall not open to permit flow of gas until it has been manually reset.

(c) Systems installed outside of a vehicle shall be so located that discharge from safety relief devices shall be not less than 3 feet (0.9m) horizontally away from any openings into the vehicle and from all the internal combustion engine exhaust termination(s) below the level of such discharge. When a system is located in a recess vaportight to the inside, vent openings in such recess shall be not less than 3 feet (0.9m) horizontally away from any opening into the vehicle below the level of these vents.

EXCEPTIONS: Doors not having openable windows or screens below the level of the gas compartment vents are excepted from this requirement.

(d) Safety relief valves located within liquefied petroleum gas container compartments may be less than three feet from openings provided:

(1) The bottom vent of the compartment is at the same level or lower than the bottom of any opening into the vehicle, or

(2) The compartment is not located on the same wall plane as the opening(s) and is at least two feet horizontally from such openings.

NOTE: Authority cited: Section 18022, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4424. Container Mounting.

(a) Housings and enclosures shall be designed to provide proper ventilation at least equivalent to that specified in Section 4421.

(b) Doors, hoods, domes or portions of housings and enclosures required to be removed or opened for replacement of containers shall incorporate means for clamping them firmly in place and preventing them from working loose during transit.

(c) Provisions shall be incorporated in the assembly to hold the containers firmly in position and prevent their movement during transit.

(d) Containers shall be mounted on a substantial support or a base secured firmly to the commercial coach chassis. Neither the container nor its support shall extend below the axle.

§ 4425. System Design and Service–Line Pressure.

(a) Systems shall be of the vapor–withdrawal type.

(b) Vapor, at a pressure not over 18 inches water column, shall be delivered from the container into the gas–supply connection.

(c) Container openings for vapor withdrawal shall be located in the vapor space when the container is in service or shall be provided with a suitable internal withdrawal tube which communicates with the vapor space in or near the highest point in the container when it is mounted in service position, with the commercial coach on a level surface. Containers shall be permanently and legibly marked in a conspicuous manner on the outside to show the correct mounting position and the position of the service outlet connection. The method of mounting in place shall be such as to minimize the possibility of an incorrect positioning of the container.

§ 4426. Electrical Equipment.

All electrical equipment installed in conjunction with gas equipment shall be listed for the purpose intended.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).

§ 4428. Gas Piping Systems.

The requirements of this article shall govern the installation of all gas–piping systems attached to any commercial coach. The requirements of this article applicable to gas–piping systems shall not apply to piping designated as an integral part of an appliance or to gas appliance connectors.

HISTORY

1. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).

§ 4429. Piping Design.

Commercial coaches requiring fuel gas for any purpose shall be equipped with a gas–piping system that is designed for LP gas only, combination LP–natural–gas or natural gas.

§ 4430. Materials.

All materials used for the installation, extension, alteration or repair of any gas–piping system shall be new and free from defects or internal obstructions. It shall not be permissible to repair defects in gas piping or fittings. Inferior or defective materials shall be removed and replaced with acceptable material. The system shall be made of materials having a melting point of not less than 1,450° F., except as provided in Section 4436. They may consist of one or more of the following materials.

(a) Steel or wrought–iron pipe shall comply with ANSI Standard B36.10–1970 for Wrought–Steel and Wrought–Iron Pipe. Threaded brass pipe in iron pipe sizes may be used.

(b) Fittings for gas piping shall be wrought iron, malleable iron, steel or brass (containing not more than 75 percent copper).

(c) Copper tubing shall be annealed type, grade K or L, conforming to the Specifications for Seamless Copper Water Tube (ASTM B88–72), or

shall comply with the Specifications for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service, (ASTM B280–73). When used on systems designed for natural gas, such tubing shall be internally tinned.

(d) Steel tubing shall have a minimum wall thickness of 0.032 inch for tubing of 1/2 inch diameter and smaller and 0.049 inch for diameters 1/2 inch and larger. Steel tubing shall be constructed in accordance with ASTM Specification for Electrical–Resistance–Welded Coiled Steel Tubing for Gas and Fuel Oil Lines, (ASTM A539–73), and shall be externally corrosion protected.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).

§ 4431. Expandable or Multiple Commercial Coaches.

Where gas piping is to be installed in more than one portion of an expandable or multiple commercial coach, the design and construction shall be as follows.

(a) There shall be only one point of crossover between each unit which shall be readily accessible from the exterior of the commercial coach.

(b) The connector between units shall be a listed flexible connector for exterior use and sized in accordance with Section 4434 of this chapter.

(c) Protective caps or plugs shall be permanently attached to the coach by means of a metal chain and used to seal the system when not in use.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).

§ 4434. Gas Pipe Sizing.

Gas piping systems shall be sized so that the pressure drop to any appliance inlet connection from any gas supply connection, when all appliances are in operation at maximum capacity, is not more than 0.5 inch water column as determined on the basis of test, or in accordance with Appendix CC–M–2. The natural gas supply connection(s) shall be not less than the size of the gas piping and/or not smaller than 3/4 inch nominal pipe size.

HISTORY

1. Amendment of section and repealer of Table 2 and new Table D–2 filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer of Table D–2 and amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
3. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).

§ 4435. Joints for Gas Pipe.

All pipe joints in the piping system, unless welded or brazed, shall be screw threaded joints that comply with ANSI Standard Pipe Threads (except Dryseal) B 2.1—1968. Right and left nipples or couplings shall not be used. Unions, if used, shall be of ground joint type. The material used for welding or brazing pipe connections shall have a melting temperature in excess of 1,000° F. Pipe shall not be bent.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4436. Tubing Joints.

Tubing joints shall be made with either a single or a double flare of the proper degree, as recommended by the tubing manufacturer, or with other listed vibration–resistant fittings, or joints may be brazed with material having a melting point exceeding 1,000° F. Metallic ball sleeve compression–type tubing fittings shall not be used.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4437. Concealed Tubing.

Tubing shall not be run inside walls, floors, ceilings or partitions. Where tubing passes through walls, floors, ceilings, partitions or similar installations, such tubing shall be protected by the use of weather–resistant grommets that shall snugly fit both the tubing and the hole through which the tubing passes.

§ 4438. Pipe–Joint Compound.

Screw joints shall be made up tight with listed pipe–joint compound, insoluble in liquefied petroleum gas, and shall be applied to the male threads only.

§ 4439. Concealed Joints.

No piping or tubing joints shall be located in any floor, wall, partition or similar concealed construction space.

§ 4440. Couplings.

Where it is necessary to join sections of screw piping, right and left nipples and couplings shall not be used. Ground joint unions may be used to connect heat–producing appliances to the appliance branch piping.

§ 4441. Hangers and Supports.

(a) All gas piping shall be supported by straps or hangers at intervals of not more than four feet, except where support is provided by structural members. The gas–supply connection shall be rigidly anchored to a structural member within six inches of the gas supply connection. Piping shall be installed so that it will not be subject to undue strains and stresses.

(b) Metallic gas piping straps or hangers shall be galvanized or equivalently protected metal.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4442. Electrical Ground.

Gas piping shall not be used for an electrical ground.

§ 4443. Identification of Gas Supply Connections.

A label shall be permanently attached on the outside of the exterior wall of the commercial coach adjacent to the gas supply connection which reads (as appropriate either):

LP-Gas System

This gas piping system is designed for use of liquefied petroleum gas only.

DO NOT CONNECT NATURAL GAS TO THIS SYSTEM.

CONTAINER SHUTOFF VALVES SHALL BE CLOSED DURING TRANSIT.

When connecting to lot outlet, use a listed gas supply connector, for mobile homes, rated at

☐ 100,000 Btuh
or more.
☐ 250,000 Btuh

Before turning on gas, make certain all gas connections have been made tight, all appliance valves are turned off, and any unconnected outlets are capped.

After turning on gas, test gas piping and connections to appliances for leakage with soapy water or bubble solution, and light all pilots.

Combination LP-Gas and Natural Gas System

This gas piping system is designed for use of either liquefied petroleum gas or natural gas.

NOTICE: BEFORE TURNING ON GAS BE CERTAIN APPLIANCES ARE DESIGNED FOR THE GAS CONNECTED AND ARE EQUIPPED WITH CORRECT ORIFICES. SECURELY CAP THIS INLET WHEN NOT CONNECTED FOR USE.

When connecting to lot outlet, use a listed gas supply connector, for mobile homes. rated at

☐ 100,000 Btuh
or more.
☐ 250,000 Btuh

Before turning on gas, make certain all gas connections have been made tight, all appliance valves are turned off, and any unconnected outlets are capped.

After turning on gas, test gas piping and connections to appliances for leakage with soapy water or bubble solution, and light all pilots.

The appropriate BTUH input rating shall be marked.

NOTE: See Article 1, Section 4031 for label size and type of material.

HISTORY

1. Amendment filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).

§ 4444. Gas–Supply Connection Cap.

A protective cap or plug permanently attached to the vehicle shall be installed to effectively close the gas–supply connection when not in use on LP–gas, combination LP–natural or natural–gas–piping systems.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4445. Appliance Connections.

All gas–burning appliances shall be connected to the gas–piping system with materials as provided in Section 4430 or with listed gas appliance connectors. Gas appliance connectors shall not be run through walls, ceilings, floors or partitions. Aluminum tubing and connectors shall not be used in exterior locations.

HISTORY

1. Amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).

§ 4446. Appliance Shutoff Valves.

A shutoff valve shall be installed in the fuel–piping outside of each gas appliance within the vehicle, upstream of the union or connector in addition to any valve on the appliance. The shutoff valve shall be located within 6 feet of a cooking appliance and within 3 feet of any other appliance.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4450. Testing Before Appliances Are Connected.

Piping systems shall stand a pressure of at least six inches mercury or three–psi for a period of not less than ten minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or slope gage or equivalent device calibrated so as to be read in increments of not greater than one–tenth pound. The source of pressure shall be isolated before the pressure tests are made.

Before test is begun, the temperature of the air and of the piping shall be the same, and constant air temperature shall be maintained throughout the test.

§ 4451. Testing After Appliances Are Connected.

After appliances are connected, the piping system shall be pressurized to not less than 10 inches nor more than 14 inches water column and the appliance connections tested for leakage with soapy water or bubble solution.

HISTORY

1. Amendment filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
2. Amendment filed 11-28-75 as an emergency; effective upon filing (Register 75, No. 48).
3. Certificate of Compliance filed 1-30-76 (Register 76, No. 5).
4. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).

§ 4452. Leaks.

(a) Leaks in gas piping shall be located by applying soapy water to the exterior of the piping.

(b) Fire, ether or acid shall not be used to locate or repair leaks, nor shall any substance other than air be introduced into the gas piping.

(c) It shall not be permissible to repair defects in gas piping or fittings. Defective pipe or fitting shall be removed and replaced with sound material.

§ 4453. Rodent Resistance.

All exterior openings around piping, ducts, plenums, chimneys and vents shall be sealed to resist the entrance of rodents.

§ 4455. General.

The requirements of this article shall govern the installation of all oil piping systems attached to any commercial coach except piping approved as an integral part of the appliance.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4456. Expandable or Multiple Commercial Coaches.

When a commercial coach is composed of two or more units, or includes expandable rooms, the oil-piping system shall be located only in the unit containing the oil-supply connection.

§ 4457. Materials.

All materials used for the installation extension, alteration, or repair of any oil piping system shall be new and free from defects or internal obstructions. The system shall be made of materials having a melting point of not less than 1,450° F, except as provided in 4459. They shall consist of one or more of the following materials:

(a) Steel or wrought-iron pipe shall comply with American National Standard for Wrought-Steel or Wrought-Iron Pipe, B36.10-1970. Threaded copper or brass pipe in iron pipe sizes may be used.

(b) Fittings for oil piping shall be wrought iron, malleable iron, steel, or brass (containing not more than 75 percent copper).

(c) Copper tubing shall be annealed type, Grade K or L, conforming to the Specifications for Seamless Copper Water Tube (ASTM B88-72), or shall comply with the specifications for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service, (ASTM B280-73).

(d) Steel tubing shall have a minimum wall thickness of 0.032 inch for diameters up to 1/2 inch and 0.049 inch for diameters 1/2 inch and larger. Steel tubing shall be constructed in accordance with the Specification for Electric-Resistance Welded Coiled Steel Tubing for Gas and Fuel Oil Lines (ASTM A539-73) and shall be externally corrosion protected.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).

§ 4458. Size of Oil Piping.

The minimum size of all fuel-oil tank piping connecting outside tanks to the appliances shall be no smaller than three-eighths-inch OD copper tubing or one-fourth-inch ips. In those cases where No. 1 fuel oil is used with an automatic pump (fuel lifter), one-fourth-inch OD copper tubing may be used if specified by the pump manufacturer.

§ 4459. Joints for Oil Piping.

All pipe joints in the piping system, unless welded or brazed, shall be threaded joints that comply with ANSI Standards Pipe Threads (except Dryseal) B2.1—1968. Right and left nipples or couplings shall not be used. Unions, if used, shall be of ground joint type. The material used for welding or brazing pipe connections shall have a melting temperature in excess of 1,000° F.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4460. Tubing Joints.

Tubing joints shall be made with either a single or a double flare of the proper degree, as recommended by the tubing manufacturer, or with other listed vibration-resistant fittings, or joints may be brazed with material having a melting point exceeding 1,000° F. Metallic ball sleeve compression-type tubing fittings shall not be used.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4461. Pipe-Joint Compound.

Threaded joints shall be made up tight with listed pipe-joint compound which shall be applied to the male threads only.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4462. Couplings.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4463. Grade of Piping.

Fuel-oil piping installed in conjunction with gravity feed systems to oil-heating equipment shall slope in a gradual rise upward from a central location to both the oil tank and the appliance in order to eliminate air locks.

§ 4464. Hangers and Supports.

All oil piping shall be supported by galvanized or equivalently protected metal straps or hangers at intervals of not more than four feet, except where support is provided by structural members. The supply connection shall be rigidly anchored to a structural member within six inches of the supply connection. Piping shall be installed so that it will not be subject to undue strains and stresses.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4465. Testing for Leakage.

Before setting the system in operation, tank installations and piping shall be checked for oil leaks with fuel oil of the same grade that will be burned in the appliance. No other material shall be used for testing fuel-oil tanks and piping. Tanks shall be filled to maximum capacity for the final check for oil leakage.

§ 4468. Oil Tanks.

Oil tanks and listed automatic pumps (oil lifters) installed for gravity flow of oil to heating equipment shall be installed so that the top of the

tank is no higher than 8 feet above the appliance oil control and the bottom of the tank is not less than 18 inches above the appliance oil control.

HISTORY

1. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).

§ 4469. Auxiliary Oil–Storage Tank.

Oil–supply tanks affixed to a commercial coach shall be so located as to require filling and draining from the outside and shall be in a place readily available for inspection. If the fuel–supply tank is located in a compartment of a commercial coach, the compartment shall be ventilated at the bottom to permit diffusion of vapors and shall be insulated from the structural members of the body. Tanks so installed shall be provided with an outside fill and vent pipe and an approved liquid–level gage.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4470. Shutoff Valve.

A readily accessible listed manual shutoff valve shall be installed at the outlet of an oil–supply tank. The valve shall be installed to close against the supply.

§ 4471. Fuel–Oil Filters.

All oil tanks, except for integrally mounted tanks, shall be equipped with a listed oil filter or strainer located downstream from the tank shutoff valve. The fuel–oil filter or strainer shall contain a sump with a drain for the entrapment of water.

§ 4473. Appliances.

(a) All heat–producing appliances used in commercial coaches shall be specifically listed, labeled, or certified by an approved testing agency in accordance with nationally recognized standards, except as provided in these regulations. Heat–producing appliances, vents, and chimneys shall be installed in accordance with the terms of their listing and the manufacturer's instructions.

(b) In addition, appliances and equipment for heating of grease or other liquids shall be designed in such a manner that means are provided to prevent the spillage of liquids when the vehicle is in transit. This subsection shall become effective April 1, 1980.

(c) All fuel–burning appliances, except ranges, ovens, commercial food and heat–processing equipment, illuminating appliances, clothes dryers, solid fuel–burning fireplaces and fireplace stoves, shall be installed to provide for the complete separation of the combustion system from the interior atmosphere of the commercial coach. Combustion air inlets and flue gas outlets shall be listed or certified as components of the appliance. The required separation may be obtained by:

(1) The installation of direct vent system (sealed combustion system) appliances, or

(2) The installation of appliances within enclosures so as to separate the appliance combustion system and venting system from the interior atmosphere of the vehicle. There shall not be any door, removable access panel, or other opening into the enclosure from the inside of the vehicle. Any opening for ducts, piping, wiring, etc., shall be sealed.

(d) Solid fuel–burning factory–built fireplaces and fireplace stoves shall be listed for use in mobile structures and may be installed in commercial coaches provided they and their installation conform to the following:

(1) A fireplace or fireplace stove shall not be considered as a heating facility for determining compliance with thermal protection.

(2) A fireplace or fireplace stove, air intake assembly, hearth extension and the chimney shall be installed in accordance with the terms of their listings and their manufacturer's instructions.

(3) The fireplace or fireplace stove shall not be installed in a sleeping room.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4474. Fuel Conversion.

Heat–producing appliances shall not be converted from one fuel to another unless converted in accordance with the terms of their listing.

§ 4475. Appliance Installation.

(a) A forced air appliance and its return–air system shall be designed and installed so that negative pressure created by the air–circulating fan cannot affect its or another appliance's combustion air supply or act to mix products of combustion with circulating air.

(b) The air circulating fan of a furnace installed in an enclosure with another fuel–burning appliance shall be operable only when any door or panel covering an opening in the furnace fan compartment or in a return air plenum or duct is in the closed position. This does not apply if both appliances are direct vent system appliances. (Sealed combustion)

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4475.2. Separation.

(a) The interior walls and ceiling of fuel–burning furnace and water heater enclosures, including access doors, shall be covered with 5/16 inch thick gypsum board or equivalent protection.

(b) Exposed interior surfaces adjacent to cooking ranges shall have a flame–spread rating not exceeding 50. Adjacent surfaces are all exposed vertical surfaces between the range top and the overhead cabinets and/or ceiling and within 6 horizontal inches of the range.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055 and 18058, Health and Safety Code.

HISTORY

1. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4475.5. Clothes Dryer Installation.

(a) Clearance. Listed Type 1 clothes dryers shall be installed with a minimum clearance of 6 inches from adjacent combustible material, except that clothes dryers listed for installation at lesser clearances may be installed in accordance with their listing.

(b) Listed Type 2 clothes dryers shall be installed with clearances of not less than shown on the marking plate and in the manufacturer's instructions. Type 2 clothes dryers designed and marked "For use only in fire–resistive locations" shall not be installed elsewhere.

(c) Exhausting. Type 1 clothes dryers shall not be installed in bathrooms or bedrooms unless exhausted to the outside air.

Type 2 clothes dryers shall be exhausted to the outside air.

(d) Make–up Air. Provision for make–up air shall be provided for Type 2 clothes dryers, with a minimum free area of one square inch for each 1,000 Btu per hour total input rating of the dryer(s) installed.

(e) Exhaust Ducts. Type 1 and 2 clothes dryer exhaust ducts shall not be connected into any vent connector, gas vent, chimney, crawl space, attic or other similar concealed space.

Ducts for exhausting clothes dryers shall not be put together with sheet–metal screws or other fastening means which extend into the duct and which would catch lint and reduce the efficiency of the exhaust system.

(f) Exhaust ducts for Type 2 clothes dryers shall be constructed of sheet metal or other noncombustible material. Such ducts shall be equivalent in strength and corrosion resistance to ducts made of No. 24 galvanized sheet gage steel. Type 2 clothes dryers shall be equipped or installed with lint controlling means.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18055 and 18058, Health and Safety Code.

HISTORY

1. New section filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4475.7. Commercial Hoods and Kitchen Ventilation.

Except as provided in Article 3.5, of these regulations, all commercial hoods and kitchen ventilation systems shall be designed and installed in accordance with the Uniform Mechanical Code, 1976 edition, Chapter 20.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4476. Manufacturer's Instructions.

(a) Operating instructions shall be provided with the appliance.

(b) The installer shall leave the manufacturer's installation instructions with the appliance.

(c) Information on clearances, input ratings, lighting and shutdown shall be attached to the appliances with the same permanence as the nameplate, and so located that it is easily readable when the appliance is properly installed.

(d) Each fuel-burning appliance shall bear a permanent marking designating the type(s) of fuel for which it is listed.

§ 4476.5. Safety Devices.

(a) All appliances shall be equipped with a listed device or devices which will shut off the fuel supply to the main burner or burners in the event of pilot or ignition failure. In addition, liquefied petroleum gas burning appliances shall be equipped with a listed automatic device or devices which will shut off the flow of gas to the pilot in the event of ignition failure.

EXCEPTION: Listed shutoff devices are not required for listed appliances not requiring such devices and specific industrial appliances as approved by the department.

(b) All storage-type water heaters, regardless of source of energy, in addition to the primary temperature control, shall be equipped with a listed temperature-limiting device installed in accordance with applicable standards.

(c) All storage-type water heaters, regardless of source of energy, shall be provided with a listed pressure-relief valve. Each pressure-relief valve shall be an automatic type with drain and shall be set at a pressure of not more than the maximum allowable working pressure of the water heater or system, whichever is lower.

(d) Relief valves shall be equipped with a full-size drain of material able to withstand 225° F (107° C) which shall extend to the outside of the vehicle with the end directed downward. No part of the relief drain shall be trapped. The terminal end shall not be threaded.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4477. Securing.

Every appliance shall be secured in place to avoid displacement and movement from vibration and road shock.

§ 4478. Accessibility.

Every heat-producing appliance shall be accessible for inspection, service, repair and replacement without removing permanent construction. Sufficient room shall be available to enable the operator to observe the burner, controls and ignition means while starting the appliance.

§ 4479. Clearances—General.

Clearances from heat-producing appliances to adjacent surfaces shall be not less than specified in the terms of their listing. Clearance spaces shall be framed in or guarded to prevent creation of storage space within the clearance specified.

§ 4480. Venting.

Every appliance designed to be vented shall be connected to an approved venting system and vented to the outside of the vehicle. Venting systems shall not terminate beneath the vehicle.

(a) Venting systems shall be so designed and constructed as to develop a positive flow adequate to convey all combustion product to the outside atmosphere.

(b) A venting system which is an integral part of the vented appliance shall be installed in accordance with the terms of its listing, manufacturer's installation requirements, and applicable requirements of these regulations.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4481. Types of Venting Systems.

Venting of appliances shall be accomplished by one or more of the following:

(a) An integral vent system consisting entirely of listed components certified as part of the appliance.

(b) A vent system consisting entirely of listed or certified components, from the appliance outlet to the vent termination, installed in accordance with the appliance or vent manufacturer's installation instructions.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4482. Single-Wall Vents.

A single-wall metal vent or vent connector shall not be used unless listed or certified as a component part of the appliance.

§ 4483. Appliance Air Supply.

Every heat-producing appliance shall be so installed as to assure a sufficient supply of fresh air for proper fuel combustion. Air supply inlet and outlet equipment, when installed, shall maintain the required separation of combustion, ventilation and dilution air from the interior atmosphere of the commercial coach. All air-supply inlet and outlet equipment shall be listed or certified as components of the appliance and installed in accordance with the appliance manufacturer's installation instructions.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).

§ 4484. Vent Termination.

Vent openings shall not terminate less than three feet from any motor-driven air intake that terminates into the interior of the vehicle.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4485. Joints.

All joints and connections of any vent or vent-connector shall be made secure and tight.

§ 4486. Roof Jacks.

Roof jacks shall be designed and installed to prevent either the ceiling or material from the ceiling cavity from extending below the ceiling line as indicated on the roof jack.

§ 4490. Safety Devices.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY
1. Repealer filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4492. Air Supply Systems.

Supply ducts shall be made from galvanized steel, tinplated steel, or aluminum, or shall be listed Class 0, Class 1, or Class 2 air ducts. Class 2 air ducts shall be located at least 3 feet from the furnace bonnet or plenum. Ducts constructed from sheet metal shall be in accordance with Appendix Table CC-M-4.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY
1. Amendment of section, repealer of Table 3 and new Tables D-3 and D-4 filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Repealer of Tables D-3 and D-4 and amendment filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
3. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
4. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4493. Joints and Seams of Ducts.

(a) Joints and seams of ducts shall be mechanically fastened and made substantially airtight. Slip joints shall have a contact lap of at least one inch and shall be mechanically fastened by sheet metal screws or equivalent method.

(b) Tapes shall be used for sealing joints and shall not be more combustible than listed flameproof fabric.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY
1. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4494. Installation.

(a) Ducts shall be securely fastened in place and supported at least every four (4) feet.

(b) Fittings connecting the registers to the ducts system shall be constructed of metal or material which complies with the requirements of Class 0, 1, or 2 ducts under UL Standard 181.

(c) Registers shall be constructed of metal or conform with the following:

(1) Be made of materials classified 94V-0 or 94V-1 when tested as described in Underwriters' Laboratories, Inc. Standards for Tests for Flammability of Plastic Materials for Parts in Devices and Appliances, UL 1976.

(2) Resist without structural failure a 200 lb. concentrated load on a 2 inch diameter disc applied to the most critical area of the exposed face of the register. For this test the register is to be at a temperature of not less than 165 F and is to be supported in accordance with the manufacturer's instructions.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY
1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
3. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4495. Expandable or Multiple Vehicle Ducts.

(a) An expandable or multiple vehicle may have ducts of the heating system installed in the various units. The points of connection must be so designed and constructed that when the vehicle is fully expanded or coupled, the resulting duct joint will conform to the requirements of this article.

(b) Crossover duct installations shall be designed to be effectively supported by the vehicle. The installation shall be designed to provide a minimum clearance of four inches between the bottom of the ducts and the ground.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY
1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4496. Sizing of Ducts.

Ducts shall be designed so that when a labeled forced air furnace is installed and operated continually at its normal input rating in the commercial coach, with all registers in fully opened position the static pressure measured in the duct plenum shall not exceed 90% of that shown on the label of the appliance. When a cooling coil is installed between the furnace and the duct plenum, the total static pressure between the furnace and the coil shall not exceed that shown on the label of the appliance. The minimum dimension of any branch duct shall be at least one and one-half inches, and of any main duct, two and one-half inches.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY
1. Amendment of section and repealer of Table 4 filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
3. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4497. Airtightness of Supply-Duct System.

A supply-duct system shall be considered substantially airtight when the static pressure in the duct system, with all registers sealed and with the furnace air circulator at high speed, is at least 80 percent of the static pressure measured in the furnace casing, with its outlets sealed and the furnace air circulator operating at high speed.

§ 4498. Test Equipment.

For the purpose of Sections 4496 and 4497 pressures shall be measured with a water manometer or an equivalent device calibrated so as to read in increments of not greater than one-tenth-inch water column.

§ 4498.5. Duct and Plenum Insulation.

Except for special purpose commercial coaches, every heating and cooling duct and plenum shall be installed in accordance with the following:

(a) Air supply ducts that are not within the coach insulation having an R factor of at least 4 shall be insulated.

(b) Supply ducts within the coach but not within the insulation described in (a) shall be insulated with rigid insulation having a thermal insulation (R) not less than 3 with a continuous vapor barrier having a perm rating of not more than 1.0.

(c) Supply ducts exposed directly to outside air, such as under chassis crossover ducts, shall be insulated with material having a thermal insulation (R) of not less than 4.0 with a continuous vapor barrier having a perm rating of not more than 1.0.

(d) Aluminum foil used as a vapor barrier shall be at least 2 mils in thickness.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY
1. New section filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4500. Circulating Air Systems.

Provisions shall be made to permit the return of circulating air from all rooms and living spaces to the circulating air supply inlet of the furnace.

(a) Duct Material. Return ducts and any diverting dampers contained therein shall be in accordance with the following:

(1) Circulating air supply shall be through ducts complying with Section 4492.

(2) Portions of return ducts directly above the heating surfaces, or closer than 2 feet from the outer jacket or casing of the furnace shall be con-

structed of metal in accordance with Appendix Table CC–M–4, or shall be listed Class 0 or Class 1 air ducts.

(b) Separation. There shall be a complete separation between any combustion air and circulating air supply.

(c) Air Requirements. The minimum unobstructed total area of the circulating air openings or ducts to a gravity–type warm–air furnace shall be not less than 7 square inches for each 1000 Btu/h approved rating or in accordance with the terms of listing and the manufacturer's installation instructions.

The minimum unobstructed total area of the circulating air openings or ducts to a blower–type warm–air furnace shall be not less than 2 square inches for every 1000 Btu/h approved output rating or bonnet capacity of the furnace.

The total area of the circulating air openings or ducts need not be larger than the minimum sized circulating air opening or openings, or in accordance with the terms of listing and the manufacturer's installation instruction.

(1) Dampers. Volume dampers shall not be placed in any warm–air furnace circulating air inlet in a manner which will reduce the required circulating air to the furnace.

(2) Ducts for Blower–type Warm–air Furnace. Circulating air for every fuel–burning blower–type warm–air furnace shall be conducted into the blower housing from outside the furnace space by continuous airtight ducts.

(d) Permanent Openings. Living areas not served by return–air ducts and which may be closed off from the return opening of a furnace by doors, sliding partitions or other means shall be provided with permanent uncloseable openings in the doors or separating partitions to allow circulated air to return to the furnace. Such openings may be grilled or louvered. The net free area of each opening shall be not less than one square inch for every five square feet of total living area which may be closed off from the furnace by the door or partition serviced by that opening.

(e) Prohibited Sources. The circulating air for a heating system shall not be taken from any of the following locations:

(1) Closer than 10 feet from any fuel–burning appliance vent outlet or plumbing vent opening, unless such vent outlet is 3 feet above the circulating air inlet.

(2) Where it will pick up objectionable odors, fumes or flammable vapors.

(3) A hazardous or insanitary location.

(4) From a room or space having any direct–fired, fuel–burning appliances therein, except fireplaces, fireplace stoves, household cooking appliances and Class 1 clothes dryers.

(f) Screen. Every required circulating air inlet from outside the vehicle shall be covered with screen having 1/4–inch openings.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
2. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
3. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4501. Return–Air Ducts.

HISTORY

1. Repealer filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).

§ 4501.5. Duct Material.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–31–73 as an emergency; effective upon filing (Register 74, No. 1).
3. Certificate of Compliance filed 3–1–74 (Register 74, No. 9).
4. Repealer filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).

§ 4501.7. Dampers.

All dampers installed in the heating or air conditioning systems of commercial coaches shall be listed.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).

§ 4502. Permanent Openings.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4505. Air Conditioning or Comfort Cooling Equipment.

All air–conditioning or comfort–cooling equipment shall be listed, labeled or certified by an approved testing agency and installed in accordance with the terms of their listing and the manufacturer's instructions.

HISTORY

1. Amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).

§ 4506. Installation.

Cooling coils installed as a portion of, or in connection with, any forced–air furnace shall be installed on the downstream side unless specifically otherwise listed.

No refrigerant evaporator or cooling coil shall be located in the air discharge duct of any forced–air furnace unless such furnace is listed for use with a cooling coil or is listed for operation at not less than .5–inch water column static pressure.

§ 4507. Separation.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4509. Circulating Air Supply.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4510. Duct System.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4511. Duct and Plenum Insulation.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 9–7–73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 12–31–73 as an emergency; effective upon filing (Register 73, No. 52).
3. Certificate of Compliance filed 3–1–74 (Register 74, No. 9).
4. Repealer of Tables 5, D–1 and D–6 and amendment filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
5. Repealer filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

Appendix CC–M–1

Table CC–M–1
Standards for Heating, Cooling and Fuel–Burning Appliances, Pipe and Fittings, Systems, etc.

Type	*ANSI*	*UL*	*Other Standards*
Appliances			
Automatic Ice–Making Equipment			NSF–12–1978
Commercial Cooking Equipment Exhaust Systems			NSF–33
Commercial Cooking and Hot Food Storage Equipment			NSF–4–1978
Commercial Gas Baking and Roasting Ovens	Z21.28–1974 *		

Type	*ANSI*	*UL*	*Other Standards*
Appliances			
Commercial Gas-Fired and Electrically-Heated Hot Water Generating Equipment			NSF-5-1978
Commercial Powered Food Preparation Equipment			SF-8-1978
Commercial Spray Dishwashing Machines			NSF-3-1978
Dispensing Freezers			NSF-6-1978
Factory-Built Fireplaces and Fireplace Stoves	A-131.3-1971		UL-127-1971 GAL
Food Service Equipment			NSF-2-1978
Food Service Refrigerators and Storage Freezers			NSF-7-1978
Gas Counter Appliances	Z21.31-1975 *		
Gas Clothes Dryer, Type 1	Z21.5.1-1975 *		
Type 2	Z21.5.2-1974		
Gas-Fired Absorption Air Conditioners	Z21.40-1973 *		
Gas-Fired Direct Make-up Air Heaters	Z21.83.4-1978		
Gas-Fired Direct Vent Cent. Furnaces	Z21.64-1978		
Gas-Fired Duct Furnaces	Z21.34-1971 *		
Gas-Fired Gravity and Fan Type Floor Furn	Z21.48-1976 *		
Gas-Fired Gravity and Fan Sealed Comb. Wall Furn.	Z21.44-1978		
Gas-Fired Gravity and Forced Air Cent. Furnaces	Z21.47-1978		
Gas-Fired Illuminating Appliances	Z21.42-1971 *		
Gas-Fired Kettles, Steam Cookers and Gen	Z21.46-1974 *		
Gas-Fired Low Press. Steam and Hot Water Boilers	Z21.13-1971		
Gas Water Heaters, Auto. Storage Type with Inputs of 75,000 BTUHor Less	Z21.10.1-1975 *		
Gas Water Heaters, Circulating Tank, Instantaneous and Large Auto. Storage Type	Z21.10.3-1975		
Gas Heating Appliances or Mobile Homes and Travel Trailers		307(b)-1965	
Hotel and Restaurant Gas Ranges and Unit Broilers	Z21.3-1975 *		
Hotel and Restaurant Gas Deep Fat Fryers	Z21.27-1974 *		
Household Cooking Gas Appliances	Z21.1-1978		
Liquid Fuel-Burning Heating Appliances For MH & TT		307(a)-1976	
Manual Food and Beverage Dispensing Equip			NSF-18-1978
Soda Fountain and Luncheonette Equipment			NSF-1-1978
Vending Machines for Food and Beverages			NSF-25-1978
Refrigerators Using Gas Fuel	Z21.19-1975 *		
Ferrous Pipe and Fittings			
Black and Hot Dipped Zinc-Coated (Galvanized) Welded and Seamless Steel Pipe for Ordinary Uses			ASTM A120-72a. WW-P-406D73
Electric-Resistance Welded Coiled Steel Tubing for Gas and Fuel Oil Lines			ASTM A 539-73
Pipe Threads	B2.1-1968		
Wrought-Steel and Wrought-Iron Pipe	B36.10-1970		
Nonferrous Pipe, Tubing and Fittings Coated Flexible Metal Gas Connectors for Exterior Use			IAPMO TSC 9-72
Metal Connectors for Gas Appliances	Z21.24-1973 *		
Manually Operated Gas Valves	Z21.15-1974 *		
Seamless Copper Water Tube			ASTM B88-72
Seamless Copper Tube for Air Conditioning and Refrigeration Field Service			ASTM B 280-73
Wrought Seamless Copper and Copper Alloy Tube			ASTM B251-71
Miscellaneous			
Air Conditioning & Ventilating Systems			NFPA 90-A-1974
Air Ducts		UL 181-1974	
Automatic Gas Ignition Systems and Components	Z21.20-1975		
Automatic Valves for Gas Appliances	Z21.21-1974 *		
Gas Appliance Thermostats	Z21.23-1975 *		
Gas Vents	Z131.2-1973	UL 441-1973	
Factory-Built Chimneys	A131.1-1971	UL 103-1971	
Installation of Oil Burning Equipment	Z95.1-1974		NFPA No. 31-197
Installation of Gas Appliances, Gas Piping in Building			NFPA No. 54-197
LPG Containers and Accessories			ASME, DOT
Pigtails, Expansion Coils, and Flexible Hose Connectors for LP-Gas		UL 569-1975	
Quick-Disconnect Devices for Use with Gas	Z21.41-1971		
Resident Type Warm Air Heating and Air Conditioning			NFPA No. 90B73
Roof Jacks for Mobile Homes		UL 311-1976	
Relief Valves and Automatic Gas Shutoff Devices for Hot Water Supply Systems	Z21.22-1971 *		
Storage and Handling of Liquefied Petroleum Gas	Z106.1-1974		NFPA No. 58-1974
Tests for Flammability of Plastic Materials for Parts in Devices and Appliances		UL94-1976	
Tube Fittings for Flammable and Combustible Fluids and Refrigeration Service		UL 109-1978*	

*With Addenda.

Notes to Table

Abbreviations used in this Table refer to standards as identified below and elsewhere in this Standard.

AGA: Standards and Tentative Standards published by the American Gas Association, Inc. Laboratories, 8501 East Pleasant Valley Rd., Cleveland, Ohio 44131.

ANSI: American National Standards Institute, 1430 Broadway, New York, New York 10017.

ASME: Standards and Tentative Standards published by the American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.

ASTM: Standards and Tentative Standards published by the American Society for Testing and Materials, 1961 Race Street, Philadelphia, Pennsylvania 19103.

DOT: Regulations published in the Federal Code of Regulations for the Department of Transportation. Title 49, Parts 171-190 of the FR are applicable. Available from the U.S. Government Printing Office, Washington, D.C. 20234.

GAL: Standards of Gas Appliance Laboratory, Inc., 3138 East Olympic Blvd., Los Angeles, CA 90023

IAPMO: Standards (designated above as TSC (Trailer Standard)) published by the International Association of Plumbing and Mechanical Officials, 5032 Alhambra Ave., Los Angeles, California 90032.

NFPA: Standards published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

NSF: National Sanitation Foundation, 3475 Plymouth Rd., P.O. Box 1468, Ann Arbor, MI 48106.

UL: Standards and Tentative Standards published by the Underwriters Laboratories Inc., 207 East Ohio St., Chicago, Illinois 60611.

WW–P: Standards published by the Federal Supply Service of the General Services Administration available from Specification Sales (3FRSBS), Bldg. 197, Washington Navy Yard, General Services Administration, Washington, D.C. 20407.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New Appendix filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
2. Renumbering of Appendix, and amendment filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
3. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

Appendix CC–M–2

Sizing and Capacities of Gas Piping

In order to determine the size of piping to be used in designing a gas piping system, the following factors must be considered:

(1) Allowable loss in pressure from the commercial coach gas supply connection to appliance.

(2) Maximum gas consumption to be provided.

(3) Length of piping and number of fittings.

(4) Specific gravity of the gas.

(5) Diversity factor.

DESCRIPTION OF TABLES

(a) The quantity of gas to be provided at each outlet shall be determined directly from the manufacturer's Btu input rating of the appliance that will be installed.

(b) Capacities for gas at low pressures (0.5 psig or less) in thousands of BTUH of 0.60 specific gravity gas for different sizes and lengths are shown in Table CC–M–3 for iron pipe or equivalent rigid pipe and for semirigid tubing. Table CC–M–3 is based upon a pressure drop of 0.5 inch water column. In using these Tables no additional allowance is necessary for an ordinary number of fittings.

(c) Capacities in thousands of Btu per hour of undiluted liquefied petroleum gases based on a pressure drop of 0.5 inch water column for different sizes and lengths are shown in Table CC–M–3 for iron pipe or equivalent rigid pipe and for semirigid tubing. In using these Tables, no additional allowance is necessary for an ordinary number of fittings.

(d) For any gas piping system, for special gas appliances or for conditions other than those covered by Table CC–M–3 such as longer runs, greater gas demands, or greater pressure drops, the size of each gas piping system shall be determined by standard engineering methods acceptable to the department.

USE OF CAPACITY TABLES

To determine the size of each section of gas piping in a system within the range of the capacity tables, proceed as follows:

(a) Determine the gas demand of each appliance to be attached to the piping system. When Table CC–M–3 is to be used to select the piping size, calculate the gas demand in terms of thousands of BTUH for each piping system outlet.

(b) Measure the length of piping from the gas supply connection, to the most remote outlet in the commercial coach.

(c) In the appropriate capacity table, select the column showing the measured length or the next longer length if the table does not give the exact length. This is the only length used in determining the size of any section of gas piping.

(d) Use this same vertical column to locate all gas demand figures for this particular system of piping.

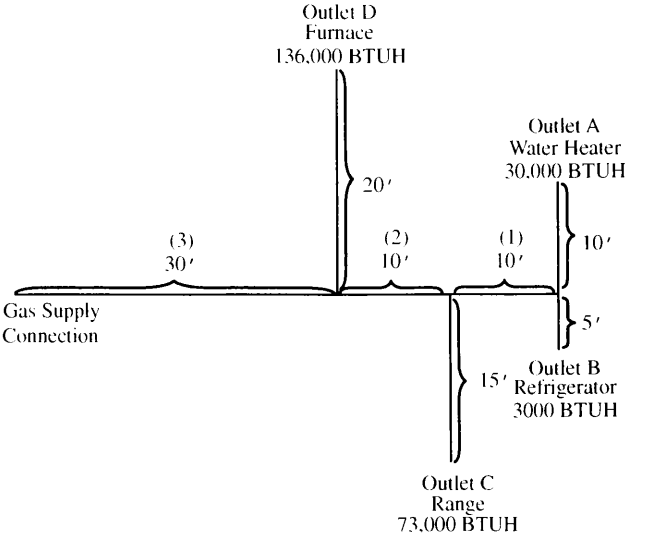
(e) Starting at the most remote outlet, find in the vertical column just selected the gas demand for that outlet. If the exact figure or demand is not shown, choose the next larger figure below in the column.

(f) Opposite this demand figure, in the first column at the left, will be found the correct size of gas piping.

(g) Using this same vertical column, proceed in a similar manner for each outlet and each section of gas piping. For each section of piping, determine the total gas demand supplied by that section. Where gas piping sections serve both heating and cooling equipment and the installation prevents both units from operating simultaneously, only the larger of the two demand loads need be used in sizing these sections.

EXAMPLE OF PIPING SYSTEM DESIGN:

Determine the required pipe size of each section and outlet of the piping system shown in Exhibit 1, with a designated pressure drop of 0.05 inch water column.



SOLUTION

(1) The length of pipe from the gas supply inlet to the most remote outlet (a) is 60 feet. This is the only distance used.

(2) Using the column marked 60 feet in the Table:

Outlet A, supplying 30,000 BTUH, requires 3/8″ iron pipe.

Outlet B, supplying 3,000 BTUH, requires 1/4″ iron pipe.

Section 1, supplying outlets A and B, or 33,000 BTUH, requires 3/8″ iron pipe.

Outlet C, supplying 73,000 BTUH, requires 3/4″ iron pipe

Section 2, supplying outlets A, B, and C, or 106,000 BTUH, requires 3/4″ iron pipe.

Outlet D, supplying 136,000 BTUH requires 3/4 inch pipe.

Section 3, supplying outlets A, B, C, and D, or 242,000 BTUH, requires 1″ iron pipe.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

TABLE CC–M–3
Gas Pipe Sizing
Maximum Capacity of Different Sizes of Pipe and Tubing in Thousands of Btu's Per hour of Natural Gas For Gas Pressures of 0.5 Psig or Less and a Maximum Pressure Drop of 1/2 Inch Water Column

	Iron Pipe Sizes Length in Feet											*Tubing Length in Feet*									
I.D.	10	20	30	40	50	60	70	80	90	100	O.D.	10	20	30	40	50	60	70	80	90	100
1/4″	43	29	24	20	18	16	15	14	13	12	3/8″	27	18	15	13	11	10	9	9	8	8
3/8″	95	65	52	45	40	36	33	31	29	27	1/2″	56	38	31	26	23	21	19	18	17	16
1/2″	175	120	97	82	73	66	61	57	53	50	5/8″	113	78	62	53	47	43	39	37	34	33
3/4″	360	250	200	170	151	138	125	118	110	103	3/4″	197	136	109	93	83	75	69	64	60	57
1″	680	465	375	320	285	260	240	220	215	195	7/8″	280	193	155	132	117	106	98	91	85	81

Part II
Maximum Capacity of Different Sizes of Pipe and Tubing in Thousands of Btu's Per Hour of Undiluted Liquefied Petroleum Gas
Based on a Maximum Pressure Drop of 1/2 Inch Water Column

	Iron Pipe Length in Feet											*Tubing Length in Feet*									
I.D.	10	20	30	40	50	60	70	80	90	100	O.D.	10	20	30	40	50	60	70	80	90	100
1/4″	67	46	37	31	28	25	23	21	20	19	3/8″	39	26	21	19	—	—	—	—	—	—
3/8″	147	101	81	70	62	56	51	48	45	42	1/2″	92	62	50	41	37	35	31	29	27	26
1/2″	275	189	152	129	114	103	96	89	83	78	5/8″	199	131	107	90	79	72	67	62	59	55
3/4″	567	393	315	267	237	217	196	185	173	162	3/4″	329	216	181	145	131	121	112	104	95	90
1″	1071	732	590	504	448	409	378	346	322	307	7/8″	501	346	277	233	198	187	164	155	146	138

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Renumbering of Table CC–M–2 to Table CC–M–3 filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

TABLE CC–M–4
Minimum Metal Thickness for Ducts *

Duct Type	*Diameter 14 inches or less*	*or*	*Width Over 14 inches*
Round	0.013 in.		0.016 in.
Enclosed Rectangular	0.013 in.		0.016 in.
Exposed Rectangular	0.016 in.		0.019 in.

* When "nominal" thicknesses are specified, 0.003 inch shall be added to these "minimum" metal thicknesses.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer of Table CC–M–4 and renumbering of Table CC–M–3 to Table CC–M–4 filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49). For history of former Table CC–M–4, see Register 77, No. 24.
2. Correction of 12–7–79 order filed 12–13–79; effective thirtieth day thereafter (Register 79, No. 49).

Subarticle 4. Plumbing

§ 4514. Application and Scope.

The provisions of this article relating to plumbing equipment and installations apply to all commercial coaches manufactured after November 23, 1970, and sold, offered for sale, rented, or leased within this State. The provisions of this article are also applicable to the alteration or conversion of plumbing equipment and installations in any commercial coach bearing or required to bear a department insignia of approval.

(a) Standards for Equipment and Installations. Standards for equipment and installations are listed in Appendix CC–P. Equipment and installations conforming to these standards or to other standards approved by the department shall be considered acceptable when listed or labeled and installed in accordance with the requirements of this article and the conditions of their approval except where otherwise provided in this article.

(b) Plumbing Standards. Plumbing fixtures, equipment, and installations in or on a commercial coach shall conform to the applicable requirements of the Uniform Plumbing Code, 1979 edition, as published by the International Association of Plumbing and Mechanical Officials, except as otherwise provided by this article.

(c) The following provisions of the Uniform Plumbing Code, 1976 edition, are not adopted: Part 1, Chapter 1, Sections 102(f)(g), 103(k)(l)(m)(n), 104(a)(c), 105(a)(e)(f), 106(b), 109(d)(e), 113(a)(c)(d)(f), 114(b)(d)(e), 117(b)(e)(i)(j)(l), 120(a)(b)(c)(e)(f), 124(d)(e)(f), 201, 301, 302, 303, 304, 305, 306, 307, 313, 314, 317, 319, 320, 321, 322, 401, 503, 506, 701, 704, 705, 910, 1001, 1004, Chapters 11, 12 and 13, Appendices D, E, G, and I.

NOTE: Authority cited: Sections 18020 and 18055, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 7–25–75; designated effective 9–1–75 (Register 75, No. 30).
2. Amendment of NOTE filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
3. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4515. Definitions.

Definitions contained in the Health and Safety Code, Division 13, Part 2, (commencing with Section 18000) and the following definitions shall apply to this Article.

Body Waste. The discharge from any fixtures, appliance or appurtenance containing fecal matter or urine.

CPVC. Chlorinated Polyvinyl chloride.

Drain. Any pipe which carries waste or waterborn wastes in a vehicle drainage system.

Drain Outlet. The discharge end of the vehicle main drain.

Drainage System. Includes all the piping within or attached to the structure which conveys sewage or other liquid wastes to the drain outlet(s).

Main Drain. The principal artery of the vehicle drainage system to which drainage branches may be connected.

PB. Polybutylene.

Toilet—Mechanical Seal. A toilet designed with a water flushing device and mechanical sealed trap.

Toilet—Recirculating Chemical. A self-contained toilet in which waste is recirculated and chemically treated.

Uniform Plumbing Code—UPC. The 1979 edition as published by the International Association of Plumbing and Mechanical Officials.

Waste Holding Tank. A liquid tight tank for the temporary retention of body and/or liquid waste.

Water Distribution System. The potable water piping within or attached to the vehicle.

Water Supply Connection. The fitting or point of connection in the vehicle water distribution system designed for connection to a water supply.

Water Storage Tank. A tank designed for the purpose of storing potable water.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
3. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4516. Drainage Systems.

The drainage system shall be designed to provide an adequate circulation of air in all piping without danger of siphonage, aspiration or forcing of trap seals under condition of ordinary use.

(a) Materials. Drainage pipe shall be cast iron, galvanized steel, galvanized wrought iron, lead, brass, copper tube DWV, ABS plastic or other listed materials.

(b) Fittings. Drainage fittings shall be cast iron, malleable iron, lead, brass, copper DWV, ABS plastic or other listed materials having a recessed drainage pattern with smooth interior waterways of the same diameter as the piping and of a material conforming to the type of piping used.

NOTE: ABS drainage pipe and fittings shall only be used in vehicles with plumbing fixtures designed for domestic sewage.

(c) Drain Outlets.

(a) Except as provided in this article, each vehicle equipped with plumbing fixtures or equipment shall have at least one drain outlet which shall terminate within 18 inches of the outside wall of the vehicle.

(d) Cap or Plug. Drain outlets shall be equipped with a watertight cap or plug which shall be permanently attached to the vehicle.

(e) Clearance from Drain Outlet. The drain outlet and couplers shall be provided with a minimum clearance of three inches in any direction from all parts of the structure or appurtenances and with not less than 18 inches unrestricted clearance directly in front of the drain outlet.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 9-7-73; effective thirtieth day thereafter (Register 73, No. 36).
2. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
3. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4516.5. Vents and Venting.

(a) Materials. Vent pipe shall be cast iron, galvanized steel, galvanized wrought iron, lead, copper DWV, brass, ABS plastic, or other listed materials.

(b) Fittings. Vent fittings shall be cast iron, galvanized malleable iron or galvanized steel, lead, copper DWV, brass, ABS plastic, or other listed materials.

(c) Changes in direction of vent piping shall be made by the appropriate use of approved fittings and no such pipe shall be strained or bent. Burred ends shall be reamed to the full bore of the pipe.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4517. Traps Required.

(a) Except as otherwise provided in these regulations, each plumbing fixture, excepting those having integral traps, shall be separately trapped by an approved type water seal trap.

(b) It is provided, however, that one (1) trap may serve a set of not more than three (3) single compartment sinks or laundry tubs of the same depth or three (3) lavatories immediately adjacent to each other and in the same room, if the waste outlets are not more than thirty (30) inches apart and the trap is centrally located when three (3) compartments are installed. The depth requirement may be waived in the case of approved type pump discharged fixtures or appliances.

(c) No food waste disposal unit shall be installed with any set of restaurant, commercial or industrial sinks served by a single trap; each such food waste disposal unit shall be connected to a separate trap. Each domestic clothes-washer and each laundry tub shall be connected to a separate and independent trap; except that a trap serving a laundry tub may also receive the waste from a clotheswasher set adjacent thereto. No clotheswasher or laundry tub shall be connected to any trap for a kitchen sink.

(d) The vertical distance between a fixture outlet and the trap weir shall be as short as practicable, but in no case shall the tail piece from any fixture exceed twenty-four (24) inches in length.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).
2. Amendment filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4517.3. Traps Prohibited.

A trap that depends on concealed interior partitions for its seal, full 'S' traps, bell traps, and crown-vented traps are prohibited. No fixture shall be double trapped. Drum traps may be installed only when approved by the department for special conditions. No drum trap shall be installed without a vent.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4517.5. Trap Seals.

Each 'P' trap shall have a water seal of not less than two (2) inches and not more than four (4) inches, except where a deeper seal is necessary for special conditions. Traps shall be set true with respect to their water seals and where necessary they shall be protected from freezing.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4517.7. Plumbing Fixtures.

Plumbing fixtures shall have smooth impervious surfaces, be free from defects and concealed fouling surfaces, capable of resisting road shock and vibration and shall conform to nationally recognized applicable standards or other approved standards.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4517.8. Waste Holding Tanks.

Waste holding tanks installed in plumbing systems shall comply with the following:

(a) Tanks shall be listed to approved standards and securely installed in a location to be removable for service, repair or replacement without

the necessity of removing permanent, structural, mechanical or electrical equipment.

(b) Minimum size of inlet connections shall be determined by the total number of fixtures to be connected to the tank.

Toilet connections shall be 3–inch minimum pipe size and shall extend vertically. The inlet fitting shall not extend downward into the tank more than 1 1/2 inches (38 mm). The toilet connection shall be designed to receive or conform to an approved shape closet flange of standard dimensions or other approved fitting.

(c) Body waste holding tank drain opening shall be a minimum 3–inch pipe size. Liquid waste holding tank drain opening shall be a minimum 1 1/2 inch pipe size. Drain openings shall be located at the lowest point in the tank.

A listed fullway valve shall be directly connected to the tank or installed in the drain pipe of the tank within 36 inches (915 mm) of the drain outlet.

(d) The tank shall be vented at the highest point in the top of the tank by one of the following methods:

(1) A 1 1/4 inch minimum diameter individual vent pipe extending undiminished in size through the roof.

(2) A wet vent serving as a drain provided the drain portion is increased one pipe size larger than the connected trap arm.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4518. Water Distribution System.

Piping systems shall be sized to provide an adequate quantity of water to each plumbing fixture at a flow rate sufficient to keep the fixture in a clean and sanitary condition without any danger of backflow or siphonage.

(a) Materials. Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel, chlorinated polyvinyl chloride, polybutylene or other material listed for hot and cold water distribution systems.

(b) Used Material. Piping and tubing which has previously been used for any purpose other than for potable water systems shall not be used.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).
2. Correction of 12–7–79 order filed 12–13–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4519. Water Supply Connections.

(a) Each commercial coach equipped with a water distribution system designed for connection to an outside source shall have a water–supply connection which shall terminate within 18 inches of the outside wall of the vehicle.

(b) Cap or Plug. Water–supply connections shall be equipped with a watertight cap or plug which shall be permanently attached to the vehicle.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4522. Potable Water Storage Tanks.

Potable water storage tanks installed in plumbing systems shall comply with the following:

(a) Tanks shall be listed to approved standards and installed in a location to be removable for service, repair or replacement without the necessity of removing permanent structural, mechanical or electrical equipment. Where the tank is installed in such a manner that it may be subject to road damage it shall be provided with mechanical protection.

(b) Non–pressure gravity tanks shall be equipped with a vent at the top of the tank. Vents and overflow pipe openings shall be protected from the entrance of dirt, insects and other contamination.

(c) Potable water storage tanks designed to be pressurized, shall be equipped with a listed air pressure relief valve set to open at not more than 125 psig (862 KPA) or in accordance with the tank manufacturer's instructions.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer and new section filed 12–7–79; effective thirtieth day thereafter (Register 79 No. 49).

Appendix CC–P–1

Wall Surfacing for Tub and Shower Enclosures

I. Material: The wall covering material must have an exposed surface that is impervious to water; the substrate material must be resistant to deterioration from exposure to high humidity and temporary water leakage.

A. Strength: The complete wall assembly, including the wall covering substrate, shall be capable of withstanding a uniform load of five pounds per square foot applied perpendicular to the surface. The deflection, under load, shall not exceed 1/180 of the wall, for the assembly; or 1/240 the distance between framing members, for the wall covering substrate.

B. Surface Finish: The exposed surface must meet the minimum requirements of the American Hardboard Association PS59–73, Prefinished Hardboard Paneling, Class 1, as certified by the panel manufacturer.

C. Size: The minimum thickness of the material shall be 1/8" nominal. The width to be sufficient to give continuous unbroken surface from corner to corner, or end of tub in corner installation, in an installation incorporating a shower, the unbroken surface must continue to a height of at least 6' above the floor of the shower.

D. Type: The substrate material shall alsomeet the requirements of the appropriate standard listed below:

(1) Hardboard: of high strength and water resistance to meet Commercial Standard CS–251–63, or AHA PS 58–73, either standard or tempered.

(2) Softwood Plywood: must meet U.S. Product Standard P.S. 1–66 including exterior type glue line and grade A face veneer"suitable for painting."

(3) Hardwood Plywood: must meet CA–35–61 Type II glue line and sound grade face veneer.

(4) Other Materials: not meeting D–1, D–2, D–3 above, shall meet the requirements of this code and their appropriate Product Standard, Industry Standard, Commercial Standard, of Federal Specification.

II. Installation: The material must be installed in conformance with this code and the application instructions provided by the material manufacturer. In case of conflict, this regulation shall take precedence.

A. Framing: Wood framing shall be spaced not more than 16" o.c. Blocking shall be 1" x 3" or equal, installed horizontally at height to match rim of the tub or shower pan. All corners shall have sufficient framing members for attachment of corner moldings.

B. Fastening: All edges and ends of panel shall occur on framing members. Panels shall be applied to wood framing members using water resistant, non–hard setting adhesive. Adhesive shall be applied to the face of all framing members except locations where panel

edges fall beneath applied moldings. Panels may also be applied over solid backing using an adhesive.

NOTE: Fasteners, if necessary, shall be used only in locations where they will be covered by applied moldings, and shall be used on not more than two adjacent edges. No other interior fasteners, or fixtures, other than required functional plumbing fixtures shall penetrate the face of the panel. Openings for these plumbing fixtures must be sealed with caulk.

C. Corners and Edges: All corners and edges must be caulked or sealed against moisture penetration. A non-hard setting sealant material must be used with applied moldings. Fastening of moldings to framing shall not be greater than 6″ o.c.

HISTORY

1. Renumbering from Appendix MH-P and amendment filed 7-25-75; designated effective 9-1-75 (Register 75, No. 30).
2. Renumbering from Appendix CC-P and amendment filed 6-9-77; designated effective 9-1-77 (Register 77, No. 24).

Appendix CC-P-2

Plumbing Material Standards

Materials	*ANSI*	*ASTM*	*FS*	*Other Standards*
Ferrous Pipe Fittings				
Cast-Iron Screwed Fittings	B16.4 -1971			
Malleable Iron Screwed Fittings	B16.3 -1971			
Special Cast-Iron Fittings				IAPMO-PS 5-66
Welded Wrought Iron Pipe	B36.2 -1969	A72 -1968		
Wrought-Steel and Wrought-Iron Pipe	B36.10 -1970			
Black and Hot Dipped Zinc-Coated (Galvanized) Welded and Seamless Steel Pipe	A120 -1972a			
Welded and Seamless Steel Pipe	B125.1 -1972	A53 -1972a		
Pipe Threads (Except Dry-Seal)	B2. -1968			
Cast-Iron Soil Piping and Fittings	A12.5. -1971	A74 -72	WW-P-401D-1969	
Nonferrous Pipe and Fittings Seamless Copper, Pipe, Standard Sizes	H26.1 -1973	B42 -1972		
Wrought Seamless Copper and Copper Alloy Tube	H23.4 -1973	B251 -1971		
Seamless Copper Water Tube	H23.1 -1973	B88 -1972		
Copper Drainage Tube (DWV)	H23.6 -1973	B306 -1973		
Wrought Copper & Bronze Solder-Joint Pressure Fittings	B16.22 -1973			
Wrought Copper and Wrought Copper Alloy Solder-Joint Drainage Fittings	B16.29 -1966			
Cast Brass Solder-Joint Pressure Fittings	B16.18 -1972			
Cast Brass Solder-Joint Drainage Fittings-DWV	B16.23 -1969			
Cast Bronze Fittings for Flared Copper Tubes	B16.26 -1967			
Seamless Red Brass Pipe, Standard Sizes	H27.1 -1973	B43 -1972		
Cast Bronze Threaded Fittings, 150 and 300 Lb	B16.15 -1971			
Plastic Pipe and Fittings ABS Plastic Drain, Waste, and Vent Pipe and Fittings		D2661 -1973	L-P322B -1973	IAPMO-PS PS 17-71 NSF 14 1970
PVC Plastic Drain, Waste and Vent Pipe and Fittings		D2665 -1973 -1973	L-P320B 320B NSF 14 1970	IAPMO-PS 27-69
Chlorinated Poly (Vinyl/ Chloride) (CPVC) Plastic Hot Water Distribution Systems		D2846 -1973		NSF 14 1970
Polybutylene (PB) Plastic Pipe (SDR-PR)		D2662 -1973		
Polybutylene (PB) Plastic Hot Water Distribution		D3309 -1974		
Miscellaneous Pipe Nipples, Threaded			WW-N 351B(1) -1970	
Rubber Gaskets for Cast Iron Soil Pipe Fittings		C564 -1970		
Backflow Prevention Devices				IAPMO -PS 31-71
Valve, Bronze, Gate 125-150 and 200 Pound			WW-V 154D 73	
Valve, Cast-Iron Gate, Threaded and Flanged			WW-V 58B 71	
Plumbing—Fixture Setting Compound			HH-C 536A'54	
Cast Brass and Tubing P-Traps				IAPMO-PS 2-66
Relief Valves and Automatic Gas Shutoff Devices for Hot Water Supply Systems	Z21.22* -1971			
Solvent Cement for ABS Plastic Pipe and Fittings		D2235 -1973		NSF-14 1970
Solvent Cements for PVC Plastic Pipe and Fittings		D2564 -1973a		NSF-14 1970
Anti-Siphon Trap Vent Device				NSP-24 1972
Diversion Tees and Twin Waste Elbow				IAPMO-PS 9-66
Flexible Copper Water Connectors				IAPMO-PS 14-71
Dishwasher Drain Airgaps				IAPMO-PS 23-68
Coated Flexible Metal Gas Connectors for Exterior Use.				IAPMO TSC 9-72
Plumbing Fixtures Plumbing Fixtures for Land Use			WW-P 541D-'71	
Vitreous China Plumbing Fixtures	A112.19.2 -1973			NSF-24 -70
Enameled Cast-Iron Plumbing	A112.19.1 -1973			
Porcelain Enameled Formed Steel Plumbing Fixtures				IAPMO TSC22-72
Formed Metal Porcelain Enameled Sanitaryware				IAPMO PS 5-67
Gel-Coated Glass-Fiber Reinforced Polyester Resin Bathtub Units	Z124.1 -1967			NSF-24 -72

Materials	*ANSI*	*ASTM*	*FS*	*Other Standard*
Gel-Coated Glass-Fiber Reinforced Polyester Resin Shower Receptor and Shower Stall Units	Z124.2 -1967			NSF-24 -72
Drains for Prefabricated and Precast Showers				IAPMO PS 4-66 NSF-24-72
Cultured Marble Lavatory				IAPMO PS 18-72
Prefabricated Shower Receptors, Shower Enclosures and Non-Metallic Bathtubs				IAPMO PS 11-72 NSF-24-72
Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings	Z97.1 -1972			

* With Addenda

Notes to Table.

Abbreviations used in Table refer to standards as identified below and elsewhere in this standard.

ANSI: American National Standards Institute, 1430 Broadway, New York, N.Y. 10017.

ASTM: Standards and Tentative Standards published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

FS: Federal Specifications published by the Federal Supply Service of the General Services Administration available from Specification Sales (3FRSBS), Bldg. 197, Washington Navy Yard, General Services Administration, Washington, D.C. 20407.

IAPMO: Standards and Tentative Standards designated as UPC-PS (Uniform Plumbing Code—Product Standard) and TSC (Trailer Standard) available from the International Association of Plumbing and Mechanical Officials, 5032 Alhambra Ave., Los Angeles, CA 90032.

NSF: Standards published by the National Sanitation Foundation, NSF Building, 3475 Plymouth Road, Ann Arbor, Michigan 48105.

PS: Product Standards available from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New Appendix CC-P-2 filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

Article 3.5. Special Purpose Commercial Coaches

§ 4525. Application and Scope.

(a) The provisions of this article relating to construction and fire safety apply to all special purpose commercial coaches, manufactured after September 1, 1979, which are sold or offered for sale, rented or leased within this state.

(b) The provisions of this article relating to construction and fire safety apply to the alteration or conversion of any construction or fire safety equipment or installations in any special purpose commercial coach bearing or required to bear a department insignia of approval.

(c) The provisions of this article relating to construction and fire safety apply to the alteration, conversion, addition or change in occupancy of any construction and fire safety equipment or installations of any special purpose commercial coach as defined in this article.

(d) In addition to the provisions of this article, the provisions of the California Administrative Code, Title 17, Chapter 5, Subchapter 2, Group 1, Article 10, apply to Mobile Food Preparation Units.

Where a person proposes to sell, offer for sale, rent or lease a special purpose commercial coach designed as a mobile food preparation unit, manufactured after the effective date of this article, or where a department insignia of approval has not been issued, it will be necessary that such person obtain written certification from the appropriate local Health Department or State Department of Health, indicating that the special purpose commercial coach complies with the applicable provisions of the California Administrative Code, Title 17, Subchapter 2, Group 1, Article 10 relating to mobile food preparation units.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. New Article 3.5 (Sections 4525–4536) filed 12-7-79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4526. Definitions.

HISTORY

1. Renumbering and amendment consolidating Section 4526 with Section 4004 filed 10-6-88 as an emergency; operative 10-6-88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-3-89.
2. The Certificate of Compliance transmitted to OAL 1-31-89 was disapproved. Order of Repeal of 10-6-88 emergency order filed 3-2-89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. Renumbering and amendment consolidating Section 4652 with Section 4004 filed 3-3-89 as an emergency; operative 3-3-89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7-3-89, or emergency language will be repealed.
4. Certificate of Compliance transmitted to OAL 6-29-89 and filed 7-24-89 (Register 89, No. 32).

§ 4527. Fire Safety.

Multipurpose passenger vehicles, are subject to Federal Standards under the National Traffic and Motor Vehicle Safety Act of 1966 are exempt from the requirements of these regulations relating to interior finish flame spread limitations.

§ 4528. Exits.

(a) Each special purpose commercial coach shall have a minimum of two exits located remote from each other and so arranged as to provide a means of unobstructed travel to the outside of the vehicle.

(b) The alternate means of egress shall be located in the side opposite the main exit door, or the roof, or the rear of the vehicle, with unobstructed passage of 24″ x 24″ (61 cm x 61 cm) minimum opening to the outside.

(c) The bottom of the alternate means of egress shall not be more than four (4) feet above the vehicle floor or above a readily accessible horizontal surface capable of supporting a weight of 300 pounds.

(d) The latch mechanism of any exit facility shall be operable by hand, and shall not require the use of a key or special tool or key for operation from the inside.

(e) Alternate exits, other than standard doors, shall be labeled with the word "EXIT" with 1″ (2.54 cm) minimum letters on a contrasting background.

§ 4529. Ceiling Height.

Each special purpose vehicle shall have a minimum ceiling height of 74 inches.

§ 4530. Room Dimensions and Construction.

(a) There shall be a clear, unobstructed height over the aisle-way portion of the unit of at least 74 inches (188 cm) from floor to ceiling, and a minimum of 30 inches (76 cm) of unobstructed horizontal aisle space.

(b) Floors, walls, and ceiling of mobile food preparation units shall be constructed so that the surfaces are durable, impervious, smooth and easily cleanable. The juncture of the floors and walls shall be covered with the floor surface extending up the wall at least 4 inches (10 cm).

(c) Construction joints and seams of mobile food preparation units shall be sealed to provide durable, smooth and easily cleanable surfaces. Soldered joints and seams shall be smooth to the touch. Silicone sealant or equivalent waterproof compounds shall be acceptable for sealing narrow seams or crevices which are 1/8 inch (3 mm) or less in width, providing they are properly applied and they prevent the entrance of liquid or vermin.

§ 4531. Glass and Glazed Openings.

The provisions of Article 3, Division 1, Section 4371 shall apply to glass and glazing in all special purpose vehicles.

§ 4532. Electrical.

The provisions of Article 3, Division 2, of this subchapter, and the following shall apply to electrical equipment and installations of all special purpose commercial coaches.

(a) All 115–220 volt electrical wiring in mobile food preparation units shall be installed in listed electrical conduit.

(b) All ceiling light fixtures in mobile food preparation units shall be recessed or flush mounted and sealed and have approved safety covers. The minimum clearance from the floor to the light fixture shall be at least 74 inches (188 cm) or the fixture shall be installed out of the traffic aisle or work area.

§ 4533. Mechanical.

The provisions of Article 3, Division 3, of this subchapter, shall apply to mechanical equipment and installations of all special purpose commercial coaches.

§ 4534. Plumbing.

The provisions of Article 3, Division 4, and the following shall apply to plumbing equipment and installations of all special purpose commercial coaches:

(a) At least a two–compartment metal sink equipped with hot and cold running water with dual integral metal drainboards, installed with at least 1:100 slope toward the sink, and fabricated with a minimum 1/2 inch (12.7 mm) lip or rim to prevent the draining liquid from spilling onto the floor shall be provided in each mobile food preparation unit. The dimensions of each compartment shall be at least 12 inches (30.5 cm) wide, 30.5 cm (12 inches) long, and 9 inches (22.9 cm) deep. Each drainboard shall be at least the size of the adjacent sink compartments.

If multi–use eating and drinking utensils are used, the sink shall have three compartments.

The sink shall be equipped with a mixing faucet and shall be provided with a swivel spigot capable of servicing any sink compartment.

(b) Hand washing facilities, including a lavatory supplied with hot and cold running water with a mixing type faucet, hand washing cleanser and single–service towels in permanently installed dispensers shall be provided and maintained in each mobile food preparation unit. The lavatory basin shall have a minimum dimensions of 9″ x 9″ or (22.9 cm x 22.9 cm) and 5″ (12.7 cm) in depth. The hand washing facilities shall be separated from the utensil washing sinks by a metal guard, with a height of at least 3″ (76 mm) extending from the back edge of the drainboard to the front edge of the drainboard. The corners of the barrier shall be rounded. No separation barrier is required if the distance between the hand washing sink and the utensil drainboards is at least 2′ (61 cm).

(c) An adequate quantity of potable water for food preparation, cleaning and handwashing purposes shall be provided in all mobile food preparation units by either an approved self–contained water supply tank having a minimum capacity of 30 gallons (114 liters) or an approved water system hook–up. Hose connection valves shall be at least 5′ (1.5 meters) above the ground and be kept covered with a protective screw–type cap which is attached to the vehicle. The hose connection shall consist of a quick–disconnect device which is compatible with a complementary device installed on the potable water hose(s) at the point of supply.

The water system shall be of such materials and designed and constructed so water or air can be introduced without the water becoming contaminated. The water system shall deliver at least one gallon (4 liters) per minute to each sink basin in the unit.

(d) A water heater with a minimum capacity of 3 gallons (11 liters) or an instantaneous heater capable of producing water of 120° Fahrenheit (49 celsius) interconnected with the potable water supply, shall be provided in all mobile food preparation units and shall operate independently of the vehicle engine and/or generator. Hot and cold water, under pressure, shall be provided at hand washing and utensil sinks from mixing faucets.

(e) All liquid (including melting ice water) waste systems in mobile food preparation units shall be connected to an approved liquid waste tank with a minimum capacity of 45 gallons (170 liters) or shall be designed to be connected to a sewage disposal system.

(f) All tanks, lines, couplings, valves, or any other plumbing in mobile food preparation units shall be designed, installed, maintained, and constructed of materials that will not contaminate the water supply, food, utensils, or equipment.

(g) Water and waste storage tanks in mobile food preparation units shall be installed so as to be easily drained, flushed, and cleaned with an easily accessible outlet. Breather tubes or overflow pipe openings shall be protected from the entrance of dust, insects, and other contamination. All waste lines shall be connected to the waste tank with watertight seals.

§ 4535. Ventilation.

Mechanical exhaust ventilation equipment shall be provided over all cooking equipment to remove cooking odors, smoke, steam, grease and vapors. The ventilation shall be adequate to provide a reasonable condition of comfort for employees. Grease filters or other means of grease extraction are required and shall be of steel construction, or other approved material, and shall be readily accessible for cleaning. Every joint and seam shall be substantially tight. No solder shall be used, except for sealing a joint or seam. Every hood shall be so designed and installed to provide for thorough cleaning of the entire hood. When grease gutters are provided they shall drain to a collecting receptacle fabricated, designed, and installed to be readily accessible for cleaning. All ducts in the exhaust system shall have a slope of at least 1:6. All seams in this duct work shall be substantially tight to prevent the accumulation of grease. The ducts shall have sufficient clean–outs to make them readily accessible for cleaning. Make–up air shall be provided at the rate of that exhausted. It may be accomplished from screened service openings, screened vents in the ceiling, or mechanically through an air–conditioning system, but not through open doors or openable windows.

§ 4536. Equipment.

All equipment installed in mobile food preparation units shall comply with the following:

(a) Compressor units that are not an integral part of equipment, auxiliary engines, generators, batteries, battery chargers, gas fueled water heaters, and similar equipment shall be installed so as to be accessible only from the outside of the vehicle to provide for proper interior vehicle cleaning, maintenance, and safety.

(b) All equipment shall be so installed as to be easily cleaned, prevent vermin harborage and provide adequate access for service and maintenance. Equipment shall be spaced apart for easy cleaning or shall be sealed together. Food service equipment which is set apart from adjacent equipment and counters, shelves, walls, panels, or cabinets shall have at least 10 cm (4 inches) of unobstructed space between the equipment and adjacent surfaces. Round metal equipment legs of a sanitary design and at least 10 cm (4 inches) high shall be provided on elevated counter equipment. Food service equipment shall be secured so as to prevent undue movement during transit.

(c) All equipment shall be sealed to the floor with a metal covered base to prevent moisture from getting under the equipment or it shall be raised at least 6 inches (15 cm) off the floor by means of an easily cleanable round metal leg and foot.

(d) Equipment, including the interior of cabinet units or compartments, shall be constructed so as to have smooth, easily accessible, and easily cleanable surfaces (free from channels, crevices, flanges, ledges, sharp or jagged edges, or other cleaning obstructions). Unfinished wooden surfaces are not permitted. Food contact surfaces shall be constructed of metal, high pressure laminated plastics, or laminated hardwood which are in compliance with NSF Standards. These surfaces must be kept free of cracks, cuts, and other obstructions which would interfere with proper cleaning.

(e) Space around pipes, conduits, or hoses that extend through cabinets, floors, or outer walls shall be sealed. The closure shall be smooth and easily cleanable.

Service Openings. Service openings shall be limited to 216 square inches (1394 sq. cm) each. The service openings may not be closer together than 18 inches (46 cm).

They shall be provided with a hinged or sliding closing device of screen not less than 7 mesh per cm (16 mesh per inch) or a solid material. The service opening shall be kept closed when not in actual use.

Article 4. Recreational Vehicles

Subarticle 1. Construction and Fire Safety

§ 4550. Application and Scope.

(a) The provisions of this article relating to construction and fire safety apply to all recreational vehicles manufactured after January 1, 1974, which are sold or offered for sale, rent or lease within this state except as provided in this article. The provisions of this article are also applicable to the alteration or conversion of any construction or fire safety equipment or installations in any recreational vehicle bearing or required to bear a department insignia of approval.

(b) Multipurpose passenger vehicles, i.e. motorhomes, which are subject to Federal Standards under the National Traffic and Motor Vehicle Safety Act of 1966 are exempt from the requirements of these regulations relating to interior finish flame spread limitations.

(c) Standards for Equipment and Installations. Equipment and installations conforming to standards specified in this article or to other approved standards shall be considered acceptable by the department when listed or labeled and installed in accordance with the requirements of this article and the conditions of their approval except when otherwise provided in this article. All equipment shall be clearly labeled to indicate compliance with applicable standards.

(d) Construction and Fire Safety. The construction and fire safety requirements for recreational vehicles shall conform to the provisions of the National Fire Protection Association Standard 501 C–1977 Edition, Chapter 5, and paragraphs and Sections 5-3, 5-4, 5-4.1, 5-4.2, 5-5, 5-5.1, 5-5.2, 5-5.3, 5-5.4, 5-5.5, 5-5.6, 5-6, 5-6.2, 5-6.3, 5-6.4, 5-6.5, 5-6.6 and appendix to Chapter 5, except as otherwise provided by this article.

(e) The following provisions of the National Fire Protection Association Standard 501 C–1977 Edition, are not adopted: Chapter 1 and paragraphs and Sections 5-1, 5-1.1, 5-1.2, 5-2, 5-2.1, 5-2.2, 5-2.3, 5-2.3.1, 5-2.4, 5-4.3 and 5-6.1 of Chapter 5.

History

1. Repealer and new Article 4 (Sections 4550–4804, not inclusive) filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24). For prior history see Registers 71, No. 25; 71, No. 41; 73, No. 36; 73, No. 37; 73, No. 43; 74, No. 3; 74, No. 18; 74, No. 25; 74, No. 41; 75, No. 30; 75, No. 48; 76, No. 5; 76, No. 15; 76, No. 31; 76, No. 37; and 76, No. 48.
2. Amendment filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).

§ 4560. Engine Exhaust Systems.

All combustible material shall be separated a minimum of one inch from all internal combustion engine exhaust systems or shall be effectively insulated from such systems.

§ 4570. Fire Extinguishers.

Section 28060 of the California Vehicle Code provides the following:

28060.*

(a) No person shall sell or offer for sale a new recreational vehicle or new camper which is equipped with cooking equipment or heating equipment, and no dealer or person holding a retail seller's permit shall sell or offer for sale a used recreational vehicle or a used camper which is equipped with cooking or heating equipment, unless such new or used vehicle or new or used camper is equipped with at least one fire extinguisher, filled and ready for use, of the dry chemical or carbon dioxide type with an aggregate rating of at least 4–B:C units, which meets the requirements specified in Section 13162 of the Health and Safety Code.

(b) The operator of a recreational vehicle, or a vehicle to which a camper is attached, which recreational vehicle or camper is equipped with a fire extinguisher as required by subdivision (a), shall carry such fire extinguisher in such recreational vehicle or camper and shall maintain the fire extinguisher in an efficient operating condition.

(c) As used in this section:

(1) "Cooking equipment" means a device designed for cooking which utilizes combustible material, including, but not limited to, materials such as charcoal or any flammable gas or liquid, and "heating equipment" means a device designed for heating which utilizes combustible material, including, but not limited to, materials such as charcoal or any flammable gas or liquid.

*California Vehicle Code citation in italics.

§ 4580. Rodent Resistance.

All exterior openings around piping, ducts, plenums, chimneys and vents shall be sealed to resist the entrance of rodents.

Subarticle 2. Electrical

§ 4600. Application and Scope.

The provisions of this article relating to electrical equipment and installations apply to all recreational vehicles manufactured after September 1, 1958, and sold, offered for sale, rent, or lease within this State. The provisions of this article are also applicable to the alteration or conversion of electrical equipment and installations in any recreational vehicle bearing or required to bear a department insignia of approval.

(a) Standards for Equipment and Installations. Equipment and installations conforming to nationally recognized standards or to other approved standards shall be considered acceptable by the department when listed or labeled and installed in accordance with the requirements of this article and the conditions of their approval, except where otherwise provided in this article. All equipment shall be clearly labeled to indicate compliance with applicable standards.

(b) Electrical Standards. Electrical equipment and installations in or on a recreational vehicle shall be installed in accordance with the requirements of the National Fire Protection Association Standard 501 C–1977 Edition and the National Electrical Code, 1978 Edition, except Article 551 of the National Electrical Code and otherwise provided by this article.

The following provisions of the National Fire Protection Association Standard 501 C–1977 Edition are not adopted: paragraphs and sections 4-1, 4-1.1, 4-1.2, 4-2, 4-2.1, 4-2.2, 4-2.3, 4-4.1, 4-4.7, 4-6, 4-6.1, 4-6.2, 4-6.3, 4-6.4, 4-6.5, 4-7.3.3, 4-7.6.4 and 4-12 of Chapter 4.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 1805, Health and Safety Code.

History

1. Amendment filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4601. Definitions.

History

1. Repealer filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).

§ 4603. Low–Voltage Systems.

(a) Low–Voltage Systems. Low–voltage circuits furnished and installed by the recreational vehicle manufacturer are subject to this article.

EXCEPTION: Vehicle containing only battery circuits of 24 volts or less energy exclusively for the following are not subject to this article:

(1) Illuminating lights when the vehicle contains no other systems such as plumbing, heating or electrical over 24 volts.

(2) Circuits supplying running lights, taillights, stoplights, electrical braking, or vehicle ignition systems.

(b) Recreational vehicle metal chassis or frame may be used as the return path for exterior lighting circuits. Terminals for connection to the chassis or frame shall be of the solderless type and approved for the size

and type of wire used. Mechanical connections to the frame or chassis shall be made secure.

HISTORY

1. Amendment filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).

§ 4605. Incandescent Lighting Fixtures, Low–Voltage.

All incandescent low–voltage interior lighting fixtures shall be listed. This section shall become effective September 1, 1978.

HISTORY

1. Amendment filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).

§ 4619. Receptacle Outlets Requiring Ground–Fault Circuit Protection.

Where provided, each 120 volt, single–phase, 15 or 20 ampere receptacle outlet shall have ground–fault circuit protection for personnel in the following locations:

(a) Adjacent to a bathroom lavatory. (The receptacle outlet shall be a minimum of 30 inches, (762 MM) from the compartment floor).

(b) Adjacent to any lavatory.

(c) In an area occupied by a toilet, and or shower, or toilet and tub–shower enclosure. (A receptacle shall not be installed in a bathtub, shower or combination bathtub–shower compartment).

(d) On the exterior of the vehicle.

HISTORY

1. Amendment filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).

§ 4624. Vehicles Wired in Accordance with Section 4–7.4.3, NFPA 501 C–1977, with a Rating in Excess of 30 Amperes, 115 Volts.

In accordance with Section 4–7.4.3, NFPA 501 C–1977, any recreational vehicle with a rating in excess of 30 amperes, 115 volts, shall use a listed 40 or 50 ampere, 115/230 volt power supply assembly conforming to ANSI Standard C73.17 1972 configuration. (See NFPA, 501 C–1977, Sections 4-7.9.1, 4-7.9.3(d) and 4-7.9.4).

EXCEPTION: For a dual–supply source consisting of a generator and a power–supply cord, see NFPA 501 C–1977, Section 4–7.8.

HISTORY

1. Amendment filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).

§ 4626. Fuel–Fired Engine Driven Generator Units.

(a) Certification. All fuel–fired engine driven generators shall be investigated and listed in accordance with nationally recognized standards by an approved testing agency.

(b) Installation. Fuel–fired engine driven generators shall be installed in accordance with the equipment manufacturers installation instructions and these regulations. A copy of the installation instructions shall be provided in the vehicle.

(c) Mounting. Generator units shall be mounted in a manner so that adequate structural support from the vehicle frame, is provided for the equipment. The equipment shall be secured in place by a method that will preclude displacement from vibration and road shock.

(d) Compartment Separation. Generator unit compartments shall be designed and installed to provide a vapor–tight separation between the compartment and the interior living areas of the vehicle.

(e) Compartment Construction. Generator unit compartments shall be constructed of galvanized steel, not less than 0.0299 inch (0.759 mm) thick. Seams and joints shall be lapped, mechanically secured and made airtight to the interior of the vehicle. Alternate materials and methods of construction may be used if they provide equivalent quality, strength, effectiveness, fire resistance, durability and safety.

(f) Compartment Penetration. Fuel–fired engine exhaust systems, fuel–supplies, electrical conduit, cables, conductors and equipment shall not penetrate any area of the compartment that separates the compartment from the interior of the vehicle. Electrical conduit, cables and conductors penetrating the compartment in areas other than those that separate the compartment from the interior of the vehicle, shall be protected by the use of tight fitting grommets.

(g) Compartment Ventilation. Compartments shall be provided with ventilation. The type, amount and location of compartment ventilation shall be provided in accordance with the equipment manufacturer's installation instructions.

(h) Exhaust Systems. Except as provided by the equipment manufacturer's installation instructions, fuel–fired engine exhaust systems shall be separated a minimum of 1 1/2 inches from any combustible material or insulated or shielded so that it does not raise the temperature of any combustible material to more than 194° F (90° C).

Exhaust systems shall be provided with an effective spark arrester and shall not terminate adjacent to the vehicle gasoline filler spout. Exhausts shall terminate beyond the periphery of the vehicle.

(i) Generator Protection. Generators shall be mounted in a manner to provide an effective electrical bond to the vehicle chassis. Listed equipment shall be installed to ensure that the current–carrying conductors from the generator and from an outside source are not connected to the vehicle circuits at the same time.

(j) Supply Conductors. Supply conductors from a generator to a junction box or distribution panelboard shall be of the stranded type installed in flexible metal conduit or equivalent mechanical protection and shall have electrical protection provided by appropriately rated and listed circuit breakers.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Repealer filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).
2. New section filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).

§ 4630. Labeling at the Electrical Entrance.

HISTORY

1. Repealer filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).

Subarticle 3. Mechanical

§ 4665. Application and Scope.

The provisions of this article relating to mechanical equipment and installations apply to all recreational vehicles manufactured after September 1, 1958, and sold, offered for sale, rent, or lease within this State. The provisions of this article are also applicable to the alteration or conversion of mechanical equipment and installations in any vehicle bearing or required to bear a department insignia of approval.

(a) Standards for Equipment and Installations. Standards for equipment and installations are listed in Appendix to Chapter 3, NFPA 501 C–1977 Edition; equipment and installations conforming to these standards or other approved standards shall be considered acceptable by the department when listed and labeled and installed in accordance with the requirements of this article and conditions of their approval except as otherwise provided in this article. All equipment shall be clearly labeled to indicate compliance with applicable standards.

(b) Mechanical Standards. The mechanical equipment and installations of recreational vehicles shall conform to the provisions of the National Fire Protection Association Standard No. 501 C–1977 Edition, Chapter 3, and Appendix to Chapter 3, except as otherwise provided by this article.

(c) The following provisions of the National Fire Protection Standard No. 501 C–1977 Edition are not adopted: paragraphs and Sections 3-1, 3-1.1, 3-1.2, 3-2, 3-2.1, 3-2.2, 3-2.3, 3-2.4, and 3-6.2.2 of Chapter 3.

NOTE: Authority cited: Section 18055, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).

2. Amendment filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).

§ 4670. Labels.

All labels required by this article, and referenced in NFPA 501C shall comply with Article 1, Section 4031 for sizes and type of material.

§ 4680. Installation of Appliances.

All fuel–burning appliances, except ranges, ovens and illuminating appliances, shall be designed and installed to provide for the complete separation of the combustion system from the interior atmosphere of the recreational vehicle. Combustion air inlets and flue gas outlets shall be listed or certified as components of the appliance. The required separation shall be obtained by the installation of direct vent system (sealed combustion system) appliances.

Gas–fired refrigerators shall be designed or installed to provide for the complete separation of the combustion system from the interior atmosphere of the recreational vehicle.

Subarticle 4. Plumbing

§ 4800. Application and Scope.

The provisions of this article relating to plumbing equipment and installations apply to all recreational vehicles manufactured after September 1, 1958, and sold, offered for sale, rent, or lease within this State. The provisions of this article are also applicable to the alteration or conversion of plumbing equipment and installations in any vehicle bearing or required to bear a department insignia of approval.

(a) Standards for Equipment and Installations. Standards for equipment are listed in Appendix to Chapter 2, National Fire Protection Association Standard 501 C–1977 Edition. Standards for wall surfacing for tub and shower enclosures are listed in the Appendix RV–P–1 of this division. Equipment and installations conforming to these standards or other approved standards shall be considered acceptable by the department, when listed or labeled and installed in accordance with the requirements of this article and the conditions of their approval, except where otherwise provided in this article. All equipment shall be clearly labeled to indicate compliance with applicable standards.

(b) Plumbing Standards. Plumbing fixtures, equipment and installations in recreational vehicles shall conform to and be installed in accordance with the provisions of the National Fire Protection Association Standard No. 501 C–1977 Edition, except as otherwise provided by this article.

(c) The following provisions of the National Fire Protection Association Standard No. 501 C–1977 Edition, are not adopted: paragraphs and Sections 2-1, 2-1.1, 2-1.2, 2-2, 2-2.1, 2-2.2, 2-2.3, and 2-2.4 of Chapter 2.

History

1. Amendment filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).

Article 5. Third–Party Approval and Enforcement

§ 4850. Application and Scope.

(a) The provisions of this article shall apply to third–party entities, inspectors employed by third–party entities, and manufacturers of mobile homes, commercial coaches, special purpose commercial coaches and recreational vehicles.

(b) The provisions of this article do not apply to design approval entities, inspection entities, or manufacturers whose activities are subject to the National Manufactured Housing Construction and Safety Standards Act. (42 USC, Section 5401 et seq.).

(c) This article does not apply to the manufacturers of Factory–Built Homes, as defined in Health and Safety Code Section 19971, or to third–party entities approved under subchapter 1 of this chapter.

NOTE: Authority cited: Sections 18020 and 18030, Health and Safety Code. Reference: Sections 18013.2, 18020, 18025, 18025.5, 18026 and 18030, Health and Safety Code.

History

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance including new subsection (d) transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).
5. Repealer of subsection (d) filed 12–20–89; operative 1–1–90 (Register 90, No. 4).

§ 4852. Conditions of Approval for a Design Approval Agency.

In addition to meeting the definition of a third–party entity provided in Health and Safety Code Section 18013.2, a Design Approval Agency shall satisfy all of the following criteria as a condition of approval.

(a) A Design Approval Agency shall employ staff which satisfy the provisions of Part A of Standard E 541, of the 1986 Annual Book of ASTM Standards published by the American Society for Testing and Materials, hereby incorporated by reference. Only such staff shall perform the activities of inspecting and approving plans and quality control manuals.

(b) For the inspection of plans for structural systems of mobile homes or commercial coaches, a Design Approval Agency shall employ a staff engineer(s) registered by the State of California or architect(s) licensed by the State of California.

(c) A Design Approval Agency shall have the ability to enforce the provisions of California law and regulations governing the manufacture of mobile homes, commercial coaches, special purpose commercial coaches and recreational vehicles.

(d) A Design Approval Agency shall have the ability to submit reports complying with Section 4880.

(e) A Design Approval Agency shall have the ability to maintain plans and quality control manuals as well as amendments thereto. This ability includes such activities as record keeping, storage, retrieval of approved plans or manuals and maintenance of a system to distinguish and assemble currently approved plans or manuals from those which have been superseded or cancelled.

(f) A Design Approval Agency shall be free of actual or potential conflict of interest and shall not be affiliated with, influenced by, or controlled by any manufacturer of mobile homes, commercial coaches, special purpose commercial coaches, or recreational vehicles, or supplier.

(g) An individual applicant for approval as a Design Approval Agency shall be qualified to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Section 18020, Health and Safety Code.

History

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance including amendment of subsection (b) transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).
5. New subsection (g) and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be

transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.

6. New subsection (g) and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8–4–98 order transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 4854. Conditions of Approval for a Quality Assurance Agency.

In addition to meeting the definition of a third–party entity provided in Health and Safety Code Section 18013.2, a Quality Assurance Agency shall satisfy all of the following criteria as a condition of approval.

(a) A Quality Assurance Agency shall employ staff which satisfy the provisions of Part B of Standard E 541, of the 1986 Annual Book of ASTM Standards published by the American Society for Testing and Materials, hereby incorporated by reference. Only such staff shall perform inspections and monitoring activities.

(b) A Quality Assurance Agency shall employ Quality Assurance Inspectors approved by the department to perform inspections and monitoring activities.

(c) A Quality Assurance Agency shall have the ability to inspect mobile homes, commercial coaches, special purpose commercial coaches and recreational vehicles and to monitor quality control programs for compliance with California law and regulations, approved plans and quality control manuals, and to secure compliance.

(d) A Quality Assurance Agency shall have the ability to submit reports complying with Section 4880.

(e) A Quality Assurance Agency shall be free of actual or potential conflict of interest and shall not be affiliated with, influenced by, or controlled by any manufacturer of mobile homes, commercial coaches, special purpose commercial coaches, or recreational vehicles, or supplier.

(f) An individual applicant for Quality Assurance Agency approval shall be qualified to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Section 18020, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 8, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).
5. New subsection (f) and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
6. New subsection (f) and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8–4–98 order transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 4856. Conditions of Approval for a Quality Assurance Inspector.

A Quality Assurance Inspector shall meet all of the following criteria as a condition of approval.

(a) A Quality Assurance Inspector shall meet the provisions for Compliance Assurance Inspectors of Section 14, of Part B, of Standard E 541 of the 1986 Annual Book of ASTM Standards published by the American Society for Testing and Materials, hereby incorporated by reference.

(b) A Quality Assurance Inspector shall have the ability to inspect and monitor quality control programs for compliance with approved plans, quality control manuals and California law and regulations regarding mobile homes, commercial coaches, special purpose commercial coaches and recreational vehicles.

(c) A Quality Assurance Inspector shall have the ability to prepare inspection reports describing observed violations, corrective action and making appropriate references to the plans, quality control manuals, California law or regulations and incorporated documents.

(d) A Quality Assurance Inspector shall be free of actual or potential conflict of interest and shall not be affiliated with, influenced by or controlled by any manufacturer of mobile homes, commercial coaches, special purpose commercial coaches, or recreational vehicles, or supplier.

(e) An individual applicant for approval as a Quality Assurance Inspector shall be qualified to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Section 18020, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).
5. New subsection (e) and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
6. New subsection (e) and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8–4–98 order transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 4858. Application for Design Approval Agency and/or Quality Assurance Agency Approval.

(a) An applicant for approval to perform as a Design Approval Agency and/or Quality Assurance Agency pursuant to this article shall make application to the department using HCD–MH 470 Application for Design Approval Agency and/or Quality Assurance Agency Approval, dated May 1989 and provided by the department. The applicant shall provide the following information:

(1) Indication of whether the application is for an original approval, approval renewal or supplemental approval of a Design Approval Agency and/or Quality Assurance Agency.

(2) The firm and corporate name, business and mailing address and telephone number(s) of the applicant.

(3) Indication of whether the ownership structure is composed of either an individual, partnership or corporation.

(4) The name and title of the individual owner, or the names and titles of all partners, or the names and titles of all officers, directors and major stockholders within the corporation.

(5) Identification of any individual owner, partner(s), officer(s), director(s) and major stockholder(s) who will participate in the management or supervision of activities pursuant to this article.

(6) On a separate attachment entitled, "Organization," the following information as applicable:

(A) In descending order of responsibility, the names, titles and responsibilities of all directors, supervisors, managers, architects, engineers, technical staff, Insignia Administrator and Quality Assurance Inspectors within the organization who are responsible for the activities to be performed pursuant to this article. An organization chart may be attached, if appropriate.

(B) For Design Approval Agency applicants, the name(s) and California license number(s) of the architect(s) or the California registration

number(s) of the engineer(s) who will perform the inspection of plans for structural systems of mobile homes or commercial coaches as specified in Section 4852(b).

(C) For Quality Assurance Agency applicants, the name(s) and department approval number(s) of each Quality Assurance Inspector who will perform inspections and monitoring activities as specified in Section 4854(b).

(7) On a separate attachment entitled, "Qualifications," a detailed explanation of the applicant's business activities and how the applicant meets the requirements of Section(s) 4852(a), (c), (d) and (e) and/or 4854(a), (b), (c) and (d).

(8) Attached resumes detailing the education, training and experience for directors, supervisors, managers, engineers, architects, technical staff, Insignia Administrator and Quality Assurance Inspectors who have not been approved by the department.

(9) For Quality Assurance Agency applicants, on a separate attachment entitled, "Insignia Administration and Security Procedures," a detailed explanation of the procedures to carry out insignia administration and security procedures as required in Section 4882.

(10) The typed or printed name and signature of the individual owner or the typed or printed name and signature of all partners or the typed or printed name and signature of all major stockholders, officers and directors, and the typed or printed name and signature of all managers, supervisors, architects, technical staff, engineers, Insignia Administrator and Quality Assurance Inspectors on form HCD-MH 471, Absence of Conflict of Interest Statement, dated May 1989, and provided by the department, certifying under penalty of perjury to the absence of any conflict of interest, potential for a conflict of interest, or any collusive or fraudulent practices as specified in Section 4872. The individual owner or the partners or the major stockholders, officers and directors and the managers, supervisors, architects, technical staff, engineers, Insignia Administrator and Quality Assurance Inspectors shall also include the date, county and state that certification was executed.

(11) The signature and typed or printed name of the highest ranking officer of the ownership certifying under penalty of perjury to the accuracy of the information provided.

(12) The date, county and state that certification was executed.

(b) If additional space is required to list all partners, officers, directors and major stockholders in an ownership structure, and identification if they will participate in the management or supervision of activities pursuant to this article, the applicant shall indicate that such a list is attached to form HCD-MH 470 Application for Design Approval Agency and/or Quality Assurance Agency Approval, dated May 1989 and provided by the department.

(c) Form HCD-MH 471 Absence of Conflict of Interest Statement, dated May 1989 shall be attached to form HCD-MH 470 Application for Design Approval Agency and/or Quality Assurance Agency Approval, dated May 1989.

(d) The applicant shall present other documentation necessary to determine the applicant's eligibility to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

(e) The application shall be accompanied by the fee specified in Section 4884(a) and/or 4884(b) for an Application for Design Approval Agency and/or Quality Assurance Agency Approval.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Sections 18013.2, 18020 and 18031, Health and Safety Code.

HISTORY

1. New Section filed 10-6-88 as an emergency; operative 10-6-88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-3-89.
2. The Certificate of Compliance transmitted to OAL 1-31-89 was disapproved. Order of Repeal of 10-6-88 emergency order filed 3-2-89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3-3-89 as an emergency; operative 3-3-89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7-3-89, or emergency language will be repealed.
4. Certificate of Compliance including amendment transmitted to OAL 6-29-89 and filed 7-24-89 (Register 89, No. 32).
5. New subsection (d), subsection relettering and amendment of NOTE filed 3-20-98 as an emergency; operative 4-6-98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8-4-98 or emergency language will be repealed by operation of law on the following day.
6. New subsection (d), subsection relettering, and amendment of NOTE refiled 8-4-98 as an emergency, including amendment of subsection (a)(7); operative 8-4-98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12-2-98 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8-4-98 order, including amendment of subsection (d), transmitted to OAL 12-1-98 and filed 1-14-99 (Register 99, No. 3).

§ 4860. Application for Quality Assurance Agency Approval.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18013.2, 18020 and 18031, Health and Safety Code.

HISTORY

1. New section filed 10-6-88 as an emergency; operative 10-6-88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-3-89.
2. The Certificate of Compliance transmitted to OAL 1-31-89 was disapproved. Order of Repeal of 10-6-88 emergency order filed 3-2-89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3-3-89 as an emergency; operative 3-3-89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7-3-89, or emergency language will be repealed.
4. Certificate of Compliance including repealer of Section 4860 transmitted to OAL 6-29-89 and filed 7-24-89 (Register 89, No. 32).

§ 4862. Application for Quality Assurance Inspector Approval.

(a) An applicant for approval to perform as a Quality Assurance Inspector shall apply to the department using HCD-MH 469 "Application for Quality Assurance Inspector Approval," dated May 1989 and provided by the department. The applicant shall provide the following information:

(1) Indication of whether the application is for a Quality Assurance Inspector original approval or approval renewal.

(2) The name, business address and telephone number of the applicant.

(3) Indication of whether the applicant is currently employed or will be employed by the Quality Assurance Agency upon approval by the department.

(4) The name, address and telephone number of the Quality Assurance Agency employing or to employ the applicant.

(5) An attached resume detailing the education, training and experience of the applicant which demonstrates how he or she meets the requirements of Section 4856.

(6) The typed or printed name and signature of the applicant on form HCD-MH 471, Absence of Conflict of Interest Statement, dated May 1989 and provided by the department, certifying under penalty of perjury to the absence of any conflict of interest, potential for a conflict of interest or any collusive or fraudulent practices as specified in Section 4872. The applicant shall also include the date, county and state that certification was executed.

(7) The typed or printed name and signature of the applicant certifying under penalty of perjury to the accuracy of the information provided.

(8) The date, county and state that certification was executed.

(b) Form HCD-MH 471 Absence of Conflict of Interest Statement, dated May 1989 shall be attached to form HCD-MH 469 Application for Quality Assurance Inspector Approval dated May 1989.

(c) The application shall be accompanied by the fee specified in Section 4884(c) for an Application for Quality Assurance Inspector Approval.

(d) The applicant shall present documentation necessary to determine the applicant's eligibility to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Sections 18013.2, 18020 and 18031, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance including amendment transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).
5. New subsection (d) and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
6. New subsection (d) and amendment of NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8–4–98 order, including amendment of subsection (d), transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 4864. Application Processing Time for Original, Renewal and Supplemental Approval.

(a) Within 15 calendar days of receipt of an application pursuant to Section 4858, 4862, 4866(f) or 4868 of this subchapter, the department shall inform the applicant in writing that it is either complete and acceptable for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the provisions of either Section 4858, 4862, 4866(f) or 4868 of this subchapter, as applicable.

(b) Within 60 calendar days from the date of filing of a completed application, the department shall inform the applicant in writing of its decision regarding the application.

NOTE: Authority cited: Section 15376, Government Code; and Section 18020, Health and Safety Code. Reference: Section 15376, Government Code; and Section 18020, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance including amendment of subsection (a) transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).

§ 4866. Required Reporting of Name, Address, Ownership and Staff Changes.

(a) A third–party entity shall report all business name and address changes and a Quality Assurance Inspector shall report all name and address changes to the department no later than ten (10) days after the effective date of such change. Each report shall be accompanied by the fee specified in Section 4884(g) or (h), whichever is applicable.

(b) Whenever a person within the ownership of a third–party entity terminates ownership interest, the third–party entity shall report such change to the department in writing, no later than ten (10) days after the effective date of the change. No fee shall be required.

(c) Whenever the third–party entity terminates the employment of a person who was performing as a director, engineer, architect, inspector or insignia administrator, regardless of the cause, the third–party entity shall report such change to the department in writing, no later than ten (10) days after the effective date of the change. No fee shall be required.

(d) Whenever a third–party entity changes the responsibilities of any director, manager, engineer, architect, inspector, or insignia administrator, the third–party entity shall notify the department in writing no later than ten (10) days after the effective date of the change. No fee shall be required.

(e) Whenever a person is added to the ownership of a third–party entity, the third–party entity shall notify the department of the change by filing a new application pursuant to Section 4858. The new application may make reference to valid information and statements contained in original applications on file with the department. The application shall be transmitted to the department no later than ten (10) days after the effective date of the change. No fee shall be required.

(f) Whenever a third–party entity acquires a new employee to perform as a director, manager engineer, architect, technical staff, inspector or insignia administrator, the third–party entity shall notify the department by filing a new application for supplemental approval pursuant to Section 4858. The new application may make reference to valid information and statements contained in original applications on file with the department. The application shall be transmitted to the department no later than ten (10) days after the effective date of the change. No fee shall be required.

(g) If following receipt of a notice or application pursuant to subsections (b) (c) (d) or (f) above, the department determines that third–party entity no longer meets the conditions of approval, the third–party entity shall submit a new application pursuant to Section 4858.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18020, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance including amendment of subsections (b)–(g) transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).

§ 4868. Approval Expiration and Renewal.

(a) The approval as a Design Approval Agency and/or Quality Assurance Agency or Quality Assurance Inspector shall expire on the last day of the thirty–sixth month following the month of issuance.

(b) A Design Approval Agency and/or Quality Assurance Agency seeking renewal of the department's approval shall make application using HCD–MH 470 Application for Design Approval Agency and/or Quality Assurance Agency Approval dated May 1989 and provided by the department. The application shall be accompanied by the Design Approval Agency Approval and/or Quality Assurance Agency Approval renewal fees specified in Section 4884(d) and/or Section 4884(e). The applicant shall provide the information required by Section 4858(a)(1)(2)(3)(4)(5)(6)(A) and (B) and/or (C) and (8)(9)(10)(11)(12) and (b) as appropriate.

(c) A Quality Assurance Inspector seeking renewal of the department's approval shall make application using HCD–MH 469 "Application for Quality Assurance Inspector Approval" dated May 1989 and provided by the department. The application shall be accompanied by the Quality Assurance Inspector Approval renewal fee specified in Section 4884(f). The applicant shall provide the information required by Section 4862 (a)(1)(2)(3)(4)(6)(7) and (8).

(d) Renewal applications shall be transmitted to the department at least ninety (90) days prior to the expiration date.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18020, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance including amendment transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).

§ 4870. General Operating Procedures and Requirements.

(a) Each Design Approval Agency and Quality Assurance Agency shall maintain current copies of the California law and regulations, including any documents incorporated by reference, which are applicable to the manufacture of mobile homes, commercial coaches, special purpose commercial coaches, and recreational vehicles.

(b) Each Quality Assurance Inspector shall have applicable California laws, regulations, documents incorporated by reference, approved plans and manuals readily available on the premises while conducting inspections or monitoring quality control programs.

(c) The Design Approval Agency or Quality Assurance Agency shall prepare a written report of any unresolved dispute between a manufacturer and the agency when it pertains to the requirements of California Health and Safety Code, division 13, part 2, or this subchapter. The report shall be transmitted to the department no later than the tenth day after the unresolved dispute occurred.

(d) The date of transmittal of reports, applications and notices will be the postmarked date issued by the U.S. Postal Service, the date received by private delivery services, or the date when delivered to the department by the third-party entity.

(e) All reports and notices shall be signed by a representative of the third-party entity who certifies under penalty of perjury to the accuracy of the information provided.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18020, Health and Safety Code.

HISTORY

1. New section filed 10-6-88 as an emergency; operative 10-6-88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-3-89.
2. The Certificate of Compliance transmitted to OAL 1-31-89 was disapproved. Order of Repeal of 10-6-88 emergency order filed 3-2-89 by OAL pursuant to Government Code section 11349.6 (Register 89, No. 11).
3. New section filed 3-3-89 as an emergency; operative 3-3-89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7-3-89, or emergency language will be repealed.
4. Certificate of Compliance transmitted to OAL 6-29-89 and filed 7-24-89 (Register 91, No. 32).
5. Repealer of subsection (d) and renumbering of subsections (e) and (f) to (d) and (e) filed 6-10-91; operative 7-10-91 (Register 91, No. 34).

§ 4872. Conflict of Interest, Collusion and Fraud.

(a) A third-party entity shall be considered free of any conflicts of interest, affiliation, influence, and control when in compliance with the following criteria:

(1) It has no ownership or managerial affiliation with any supplier or manufacturer of mobile homes, commercial coaches, special purpose commercial coaches, or recreational vehicles and does not engage in the sale or promotion of any such unit.

(2) The results of its work do not accrue financial benefits to the organization via stock ownership in any supplier or manufacturer of mobile homes, commercial coaches, special purpose commercial coaches, or recreational vehicles.

(3) Its owners, directors, management personnel, engineers, architects or inspectors hold no ownership or stock in and receive no stock option from any supplier or manufacturer of mobile homes, commercial coaches, special purpose commercial coaches, or recreational vehicles.

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(4) The employment status of its personnel is free of influence or control by any supplier or manufacturer of mobile homes, commercial coaches, special purpose commercial coaches, or recreational vehicles.

(5) It does not perform as a Design Approval Agency for any manufacturer whose plans, designs or manual have been created or prepared in whole or in part by a member of the agency's staff or by a member of the staff of any affiliated organization.

(b) No member of a third–party entity shall take part in any act of collusion or other fraudulent practice with a supplier or manufacturer of mobile homes, commercial coaches, special purpose commercial coaches, or recreational vehicles.

(c) Each third–party entity and Quality Assurance Inspector shall provide the department with a written report of any contract or agreement, written or oral, with a manufacturer who is subject to this subchapter, for any service which is in addition to services provided by contract under this article. Such reports shall be transmitted to the department no later than ten (10) days after the effective date of the contract or agreement.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18013.2 and 18020, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 says or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).

§ 4874. Contract Requirements.

(a) Third–party entities and manufacturers shall execute written contracts describing all services to be rendered by the third–party entity pursuant to this article. A copy of each contract or amendment shall be transmitted by the third–party entity to the department no later than ten (10) days after the effective date. The department shall disapprove any contract in violation of the Health and Safety Code, Division 13, Part 2, Section 18000 et seq., or this article.

(b) Within ten (10) days of the cancellation of a contract, the third–party entity shall transmit to the department a written notice of the cancellation and of the circumstances which led to the cancellation. Whenever the department determines that the cause for a manufacturer's cancellation of a contract with a third–party entity is related to enforcement actions taken by the third–party entity to assure compliance with the Health and Safety Code, Division 13, Part 2, or this subchapter, the department shall monitor the inspections or plan approvals pursuant to any new contracts executed by the manufacturer and other third–party entities.

(c) No contract between a Quality Assurance Agency and a manufacturer for inspections of units manufactured in California shall violate the provisions of Section 4870(d).

(d) A contract executed between a manufacturer and a Quality Assurance Agency shall require the manufacturer to provide the Quality Assurance Agency with a written report by at least the tenth day of each month, which contains the information necessary for the Quality Assurance Agency to comply with Section 4880(d).

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18020, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance including amendment of subsection (d) transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).

§ 4876. Design Approval Procedures and Requirements.

(a) Plans approved by the department prior to the effective date of this article shall remain valid until expiration as provided in this subchapter. All plans and manual approval shall expire on the last day of the fifteenth month following the month of the approval by the Design Approval Agency. The Design Approval Agency shall provide for the renewal of expiring plans and manuals which comply with the requirements of this subchapter.

(b) The requirements of Section 4017 regarding the size and contents of drawings shall apply to plans submitted to a Design Approval Agency.

(c) Upon approval of a plan or quality control manual, the Design Approval Agency shall issue a unique plan approval number for each plan or manual. The plan approval number shall be prefaced by an identification given the agency by the department. Each page of an approved plan, each page of an amendment, and each manual cover, shall be marked or stamped with the word "Approved," along with the name of the Design Approval Agency, the date of approval, the date of expiration and the plan approval number.

The Design Approval Agency shall transmit complete copies of plans, amendments or manual bearing the approval mark to the manufacturer within ten (10) days of the approval date.

(d) When typical system approvals are used as provided in Sections 4015(b) and 4016, the Design Approval Agency shall require the manufacturer's plans to contain a system of indexing which eliminates confusion as to the applicability of typical systems throughout the manufacturer's plans.

(e) The Design Approval Agency shall require an approved plan or manual to be amended in such a manner that all superseded information is removed from the plan or manual which bears the agency's mark of approval. The Design Approval Agency shall require the manufacturer to provide written instructions which explain how to update the original plan or manual by the insert of the amendment or removal of superseded pages.

(f) The Design Approval Agency shall maintain a copy of all approvals for a period of three (3) years beyond their expiration.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18020 and 18025, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No.11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32).

§ 4878. Inspection Method and Frequency.

(a) A Quality Assurance Agency shall inspect a manufacturer's production at the location of production. For units designed and approved for final construction (exterior roof or wall materials for example) by the manufacturer at a location other than at the manufacturing facility, the Quality Assurance Agency shall perform an additional inspection of the final construction exclusive of work performed for the installation for occupancy.

(b) Upon discovery of any violation of the Health and Safety Code, Division 13, Part 2, Section 18000 et seq., or this subchapter, the Quality Assurance Agency shall verify by inspection the satisfactory correction or elimination of the violation. If correction of the violation cannot be verified at the time of inspection, the agency shall so state in the inspection report required by Section 4880 and require the affected unit(s) held for reinspection at the manufacturing facility. The agencies report of the reinspection shall describe the reinspection and correction of the violation.

(c) In order to certify a manufacturing facility, a Quality Assurance Agency shall inspect pursuant to subsection (e) no less than the first five (5) units while under construction. Such inspections shall continue until the manufacturer has demonstrated the ability to consistently manufacturer units in compliance with the law and this subchapter as a result of an effective quality control program prescribed in an approved quality control manual. At such time, the Quality Assurance Agency shall transmit to the department a Certification Report which complies with the provisions of Section 4880(e) and the inspection frequency shall be reduced as prescribed in subsection (f) or (g) of this section, whichever is applicable.

(d) For special purpose commercial coaches and recreational vehicles being manufactured without plan approval, the Quality Assurance Agency shall inspect each unit while under construction including all systems, components, equipment and installations subject to this subchapter, and shall witness all tests required by this subchapter prior to issuance of a California insignia.

(e) For units produced in manufacturing facilities which are not certified, the Quality Assurance Agency shall inspect each system, component, equipment and installation at each stage of assembly, and shall witness all tests required by this subchapter.

(f) For certified mobile home and commercial coach manufacturing facilities, the Quality Assurance Agency shall monitor compliance with approved plans by inspecting all visible portions of each system, component, equipment and installation subject to this subchapter, of each mobile home or commercial coach which will be issued California insignia.

During each inspection visit, a Quality Assurance Agency shall monitor the manufacturer's compliance with material storage, inspection and testing procedures prescribed in an approved quality control manual, and shall monitor the quality control procedures at each of the manufacturer's production stations.

(g) For certified special purpose commercial coach and recreational vehicle manufacturing facilities, the Quality Assurance Agency shall monitor compliance with approved plans by inspecting all visible portions of each system, component, equipment and installations for at least ten (10) percent of the manufacturer's production subject to this subchapter.

During each inspection visit, a Quality Assurance Agency shall monitor the manufacturer's compliance with material storage, inspection and testing procedures prescribed in an approved quality control manual and shall monitor the quality control procedures at each of the manufacturer's production stations.

(h) When the manufacturer is found to be failing to follow the plan or quality control manual, a Quality Assurance Agency shall increase the intensity and frequency of inspections until such time that the agency is satisfied that the manufacturer is producing complying units on a consistent basis.

(i) A Quality Assurance Agency shall recommend to the department, cancellation of the certification when the increased inspections required by subsection (h) reveal that a manufacturer continues to fail to comply with the quality control manual, plans, or otherwise produces noncomplying units. The recommendation shall be accompanied by the inspection reports specified in Section 4880(c) and any other documentation of actions taken to improve the manufacturer's compliance. The department shall notify the manufacturer of the recommendation and provide an opportunity for the manufacturer to submit and be heard with opposing information before the department makes a decision to cancel the certification.

(j) A Quality Assurance Agency shall recommend to the department, cancellation of the certification of any manufacturing facility which relocates, changes production sequences, changes key personnel, or introduces new designs which result in a failure to comply with the approved plans or quality control manual. The recommendation and departmental action shall be the same as specified above in subsection (i).

(k) When a certification has been cancelled, the Quality Assurance Agency shall conduct inspections as specified in subsection (e).

(l) For the purposes of this section, a manufacturing facility with plan approvals and quality control manuals in effect on the effective date of this article is considered to have been certified by the department and is not in need of recertification by a Quality Assurance Agency.

(m) A Quality Assurance Agency shall not disapprove or in any way interfere with the production of units produced in accordance with plans and quality control manuals approved by the department or the manufacturer's Design Approval Agency. When a Quality Assurance Agency believes an approved plan is in violation of the Health and Safety Code, Division 13, Part 2, or this Subchapter, the Quality Assurance Agency shall submit a written request for reconsideration of the approval to the manufacturer and the manufacturer's Design Approval Agency. The Quality Assurance Agency shall provide a copy of all such requests for reconsideration as an attachment to the Agency's monthly report specified in Section 4880(b).

If the subject of a request for reconsideration is not resolved to the satisfaction of the Quality Assurance Agency within thirty (30) days of the request, the agency shall refer the matter to the department for resolution.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18020, 18025 and 18026, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance including amendment of subsections (c), (i) and (m) transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 32.).

§ 4880. Activity Reports Requirements.

(a) By the fifteenth day of each month and on form HCD–MH 472 Design Approval Agency Monthly Activity Report, dated September 1988 and provided by the department, a Design Approval Agency shall prepare and transmit to the department the following information for each client manufacturer served in the previous month:

(1) The Design Approval Agency name, address, agency number and telephone number.

(2) The reporting month and year.

(3) The date that the report was prepared.

(4) The name and identification number of the manufacturer.

(5) Identification of whether the type of unit produced by the manufacturer is a mobile home, commercial coach, special purpose commercial coach or recreational vehicle.

(6) The number of mobile home, commercial coach, recreational vehicle and special purpose commercial coach plans, plan amendments, manuals and manual amendments approved.

(7) The number of mobile home, commercial coach, recreational vehicle and special purpose commercial coach plans, plan amendments, manuals and manual amendments rejected.

(8) The subtotal(s) of all mobile home, commercial coach, recreational vehicle, special purpose commercial coach plans, plan amendments, manuals, and manual amendments approved or rejected on page(s) 1 and/or 2.

(9) The total number of all mobile home, commercial coach, recreational vehicle, and special purpose commercial coach plans, plan amendments, manuals, and manual amendments approved or rejected, by adding the subtotals on pages 1 and/or 2.

(10) The fees calculated as follows:

(A) For mobile home and commercial coach plans approved, multiply the total number by the fee specified in Section 4884(i)(1).

(B) For special purpose commercial coach and recreational vehicle plans approved, multiply the total number by the fee specified in Section 4884(i)(2).

(C) For mobile home, commercial coach, special purpose commercial coach and recreational vehicle plan amendments approved, multiply the total number by the fee specified in Section 4884(k).

(D) For mobile home, commercial coach, special purpose commercial coach and recreational vehicle manuals approved, multiply the total number by the fee specified in Section 4884(j).

(E) For mobile home, commercial coach, special purpose commercial coach and recreational vehicle manual amendments approved, multiply the total number by the fee specified in Section 4884(k).

(11) The total fees attached by adding the fees for mobile home, commercial coach, special purpose commercial coach and recreational vehicle plan approval, plan amendments approval, manual approval and manual amendments approval.

(12) The signature and title of the authorized person certifying under penalty of perjury to the accuracy of the information provided.

(13) The date that certification was signed.

(b) The Design Approval Agency shall number the front and back pages on form HCD–MH 472 Design Approval Agency Monthly Activity Report, dated September 1988.

(c) Each Design Approval Agency monthly activity report shall be accompanied by a copy of each plan, manual or amendment and instructions approved during the previous month and the plan approval monitoring fee specified by Section 4884(i), (j) and (k), whichever is applicable, for each plan, manual or amendment approved during the reporting month.

(d) By the fifteenth day of each month and on form HCD–MH 473 Quality Assurance Agency Monthly Summary Report for Recreational Vehicle, Mobile Home, Commercial Coach and Special Purpose Commercial Coach, (Part II), dated May 1989 and provided by the department, a Quality Assurance Agency shall prepare and transmit to the department the following information for each client manufacturer served in the previous month:

(1) The Quality Assurance Agency name, address, agency number and telephone number.

(2) The reporting month and year.

(3) The date that the report was prepared.

(4) The name and identification number of the manufacturer.

(5) Indication of whether the type of units subject to inspection and reinspection is a mobile home, commercial coach, recreational vehicle or special purpose commercial coach.

(6) The total number of inspection visits, the total number of units inspected, the total number of units reinspected and the total number of units produced for California.

(7) The percentage of California units inspected.

(8) The total number of units issued California insignia, the total number of insignia assigned and the total number of insignia unassigned to units.

(9) Indication of whether the quality control program is acceptable or not acceptable. The department may refer to forms HCD–MH 441 and 441B Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Recreational Vehicle, Mobile Home, and Special Purpose Commercial Coach (Part I), dated May 1989 and forms HCD–MH 442 and 442B Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Commercial Coach (Part I), dated May 1989 for an explanation of why the quality control program is not acceptable.

(10) The grand totals of all inspections, units inspected, units reinspected, California units produced, insignia issued and insignia affixed and insignia unaffixed.

(11) The signature and printed name and title of the authorized person, certifying under penalty of perjury to the accuracy of the information provided.

(12) The date certification was signed.

(e) The Quality Assurance Agency shall number the front and back pages on form HCD–MH 473 Quality Assurance Agency Monthly Summary Report for Recreational Vehicle, Mobile Home, Commercial Coach and Special Purpose Commercial Coach, (Part II), dated May 1989.

(f) By the fifteenth day of each month and on form HCD–MH 441 Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Recreational Vehicle, Mobile Home, and Special Purpose Commercial Coach (Part I), dated May 1989 and provided by the department, a Quality Assurance Agency shall prepare and transmit to the department the following information for each client manufacturer served in the previous month:

(1) The Quality Assurance Agency name, agency number, address and telephone number.

(2) The reporting month and year.

(3) The name, identification number, plant address and telephone number of the manufacturer.

(4) The number of inspections and reinspections conducted.

(5) The dates that inspections and reinspections were conducted.

(6) The number of units inspected and the number of units held for reinspection.

(7) The number of units issued California insignia.

(8) Indication of whether the frequency of inspections by the Quality Assurance Agency and the manufacturer's quality control program is acceptable or needs improvement, and a brief narrative explaining why improvement is needed.

(9) The number of tests witnessed by the Quality Assurance Agency.

(10) The types of tests witnessed and the dates that tests were witnessed to include the gas piping system (low pressure and three pound (3 lb.) tests), dielectric 12, 120 or 120/240 volt systems, polarity, continuity, operational, water piping system, demand system and waste and vent system.

(11) Indication of whether requests for plan reconsideration pursuant to Section 4878(m) are attached.

(12) Identification of the plan submitted for reconsideration.

(13) The make and model and complete serial number.

(14) The plan approval number or inspection pursuant to Section 4878(d) or (e) as appropriate.

(15) Indication of whether the unit is a mobile home, recreational vehicle or special purpose commercial coach.

(16) The California insignia number and date of manufacture.

(17) The location in the manufacturing process when inspected.

(18) The name and address of the purchaser.

(19) The name, street address, city, state and zip code of the unit's destination.

(20) For mobile homes and special purpose commercial coaches only, identification of the number of sections as follows:

(A) Specify I if an individual section; or

(B) If of multi–section design, designate M1 for the first section, M2 for the second section, M3 for the third section, etc.

(21) The signature and printed name and title of the authorized person certifying under penalty of perjury to the information contained in the report and any and all attachments to the report as being true and correct.

(22) The date that certification was signed.

(g) If the Quality Assurance Agency requires additional space to submit information required on HCD–MH 441, Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Recreational Vehicle, Mobile Home, and Special Purpose Commercial Coach (Part I), dated May 1989, the agency shall complete form HCD–MH 441B Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Recreational Vehicle, Mobile Home, and Special Purpose Commercial Coach (Part I), dated May 1989, and provided by the department and shall contain the following information:

(1) The Quality Assurance Agency name and agency number.

(2) The name and identification number of the manufacturer.

(3) The reporting month and year.

(4) The make and model and complete serial number.

(5) The plan approval number or inspection pursuant to Section 4878(d) or (e) as appropriate.

(6) Identification of whether the unit is a mobile home, recreational vehicle or special purpose commercial coach.

(7) The California insignia number and date of manufacture.

(8) The location in the manufacturing process when inspected.

(9) The name and address of the purchaser.

(10) The name, street address, city, state and zip code of the unit's destination.

(11) For mobile homes and special purpose commercial coaches only, identification of the number of sections as follows:

(A) Specify 1 if an individual section; or

(B) If of multi-section design, designate M1 for the first section, M2 for the second section, M3 for the third section, etc.

(h) The Quality Assurance Agency shall number the back page of form HCD-MH 441 Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Recreational Vehicle, Mobile Home, and Special Purpose Commercial Coach (Part I), dated May 1989 and number the front and back pages of form HCD-MH 441B Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Recreational Vehicle, Mobile Home, and Special Purpose Commercial Coach (Part I), dated May 1989. Form(s) HCD-MH 441B shall be attached to form HCD-MH 441.

(i) By the fifteenth day of each month and on form HCD-MH 442 Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Commercial Coach (Part I), dated May 1989 and provided by the department, a Quality Assurance Agency shall prepare and transmit to the department the following information for each client manufacturer served in the previous month:

(1) The Quality Assurance Agency name, agency number, address and telephone number.

(2) The reporting month and year.

(3) The name, identification number, plant address and telephone number of the manufacturer.

(4) The number of inspections and reinspections conducted.

(5) The dates that inspections and reinspections were conducted.

(6) The number of units inspected and the number of units held for reinspection.

(7) The number of units issued California insignia.

(8) Indication of whether the frequency of inspections by the Quality Assurance Agency and the manufacturer's quality control program is acceptable or needs improvement, and a brief narrative explaining why improvement is needed.

(9) The number of tests witnessed by the Quality Assurance Agency.

(10) The dates and types of tests witnessed to include the gas piping system (low pressure and three pound (3 lb.) tests), dielectric 12, 120, 120/240, or 480 volt systems, polarity, continuity, operational, water piping system and waste and vent system.

(11) Indication of whether requests for plan reconsideration pursuant to Section 4878(m) are attached.

(12) Identification of the plan submitted for reconsideration.

(13) The serial number, model and plan approval number.

(14) The roof, floor and wind live loads, occupancy, electrical, plumbing, mechanical and fire safety for each section comprising the commercial coach.

(15) The California insignia number.

(16) The location in the manufacturing process when inspected.

(17) The date of manufacture.

(18) The name and address of the purchaser.

(19) The name, street address, city, state and zip code of the unit's destination.

(20) Identification of the number of sections within the unit as follows:

(A) Specify 1 if an individual section; or

(B) If of multi-section design, designate M1 for the first section, M2 for the second section, M3 for the third section, etc.

(21) The signature and printed name and title of the authorized person, certifying under penalty of perjury that the information contained in the report and any and all attachments to the report is true and correct.

(22) The date that the certification was signed.

(j) If the Quality Assurance Agency requires additional space to submit information required on form HCD-MH 442, Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Commercial Coach (Part I), dated May 1989, the agency shall complete form HCD-MH 442B Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Commercial Coach (Part I), dated May 1989, and provided by the department and shall contain the following information:

(1) The Quality Assurance Agency name and agency number.

(2) The name and identification number of the manufacturer.

(3) The reporting month and year.

(4) The serial number, model and plan approval number.

(5) The roof, floor and wind live loads, occupancy, electrical, plumbing, mechanical and fire safety for each section comprising the commercial coach.

(6) The California insignia number.

(7) The location in the manufacturing process when inspected.

(8) The date of manufacture.

(9) The name and address of the purchaser.

(10) The name, street address, city, state and zip code of the unit's destination.

(11) Identification of the number of sections within the commercial coach as follows:

(A) Specify 1 if an individual section; or

(B) If of multi-section design, designate M1 for the first section, M2 for the second section, M3 for the third section, etc.

(k) The Quality Assurance Agency shall number the back page of form HCD-MH 442 Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Commercial Coach (Part I), dated May 1989 and the front and back pages of form HCD-MH 442B Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Commercial Coach (Part I), dated May 1989. Form(s) HCD-MH 442B shall be attached to form HCD-MH 442.

(l) The Quality Assurance Agency shall notify the department of corrections to forms HCD-MH 441 and 441B Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Recreational Vehicle, Mobile Home, and Special Purpose Commercial Coach (Part I), dated May 1989 by submitting form HC-MH 444 Quality Assurance Agency Adjustment Report for Recreational Vehicle, Mobile Home and Special Purpose Commercial Coach, dated May 1989 and provided by the department and shall contain the following information:

(1) The Quality Assurance Agency name, agency number, address and telephone number.

(2) The month and year of the adjusted report.

(3) The name, identification number, plant address and telephone number of the manufacturer.

(4) The signature and printed name and title of the authorized person, certifying under penalty of perjury that the information contained in the report and any and all attachments to the report is true and correct.

(5) The date that the certification was signed.

(6) The make and model and complete serial number.

(7) The plan approval number or inspection pursuant to Section 4878(d) or (e) as appropriate.

(8) Identification of whether the unit is a mobile home, recreational vehicle or special purpose commercial coach.

(9) The California insignia number and date of manufacture.

(10) The location in the manufacturing process when inspected.

(11) The name and address of the purchaser.

(12) The name, street address, city, state and zip code of the unit's destination.

(13) For mobile homes and special purpose commercial coaches only, identification of the number of sections as follows:

(A) Specify I if an individual section; or

(B) If of multi-section design, designate M1 for the first section, M2 for the second section, M3 for the third section, etc.

(14) Specification of the appropriate adjustment code as follows:

(A) VI for void insignia;

(B) E for error in information; or

(C) AU to add unit to report.

(m) The Quality Assurance Agency shall number the front and back pages on form HCD-MH 444 Quality Assurance Agency Adjustment Report for Recreational Vehicle, Mobile Home or Special Purpose Commercial Coach, dated May 1989.

(n) The Quality Assurance Agency shall notify the department of corrections to forms HCD-MH 442 and 442B Quality Assurance Agency Monthly Inspection and Insignia Issuance Summary for Commercial Coach (Part I), dated May 1989 by submitting form HCD-MH 445 Quality Assurance Agency Adjustment Report for Commercial Coach, dated May 1989 and provided by the department and shall contain the following information:

(1) The Quality Assurance Agency name, agency number, address and telephone number.

(2) The month and year of adjusted report.

(3) The name, identification number, plant address and telephone number of the manufacturer.

(4) The signature and printed name and title of the authorized person, certifying under penalty of perjury that the information contained in the report and any and all attachments to the report is true and correct.

(5) The date that certification was signed.

(6) The serial number, model and plan approval number.

(7) The roof, floor and wind live load, occupancy, electrical, plumbing, mechanical and fire safety for each unit.

(8) The California insignia number.

(9) The location in the manufacturing process when inspected.

(10) The date of manufacture.

(11) The name and address of the purchaser.

(12) The name, street address, city, state and zip code of the unit's destination.

(13) Identification of the number of sections within the commercial coach as follows:

(A) Specify I if an individual section; or

(B) If of multi-section design, designate M1 for the first section, M2 for the second section, M3 for the third section, etc.

(14) Specification of the appropriate adjustment code as follows:

(A) VI for void insignia;

(B) E for error in information; or

(C) AU to add unit to report.

(o) The Quality Assurance Agency shall number the front and back pages on form HCD-MH 445 Quality Assurance Agency Adjustment Report for Commercial Coach, dated May 1989.

(p) At the conclusion of each inspection visit, the Quality Assurance Inspector shall prepare an inspection report which shall include the following information:

(1) Identification of the Quality Assurance Agency, the inspector and the manufacturer.

(2) The date of the inspection.

(3) A brief narrative describing the inspection activities, i.e., production line, finished units in storage, material storage, tests, quality control inspections, etc.

(4) The model, plan approval number, serial number and type of each unit inspected.

(5) The location of each unit in the production sequence when inspected, including each finished unit bearing an insignia.

(6) For each unit inspected or tested, a description of each violation observed and of the action taken to correct the violation and eliminate its recurrence. The appropriate plan or manual and law, regulation or document incorporated by reference shall be referenced for each violation.

(7) An order to hold any unit which was found to be in violation which could not be brought into compliance during the inspection visit.

(8) A brief narrative which describes any reinspection, correction, or the discovery of additional violations found on units held for reinspections from previous inspections.

(9) For certified manufacturing facilities, a brief narrative which summarizes the effectiveness of the manufacturer's quality control program and notes any requirements for needed improvements.

(10) A brief narrative which summarizes the manufacturer's compliance with insignia security requirements.

(q) A copy of each inspection report shall be provided to the manufacturer. Copies of the inspection reports shall be provided the department upon written request from the department.

(r) A Certification Report required by Section 4878(c) shall include the following information:

(1) Identification of the Quality Assurance Agency and the manufacturer.

(2) The date of the report.

(3) A narrative which describes the inspections, dates of each inspection, observations, an assessment of the manufacturer's quality control program and compliance with approved plans, manuals, and applicable law or regulation, and which provides justification for the Agency's reduction in the frequency of inspection.

(4) A narrative which explains the insignia security procedures adopted by the manufacturer and which assesses their effectiveness.

(5) As an attachment, a copy of each inspection report associated with the certification of the manufacturing facility.

(s) A Quality Assurance Agency shall notify the department in writing within two (2) days of the discovery of units shipped for sale in California without inspection when required by Section 4878, insignia, or in violation of California law, regulation, or approved plans.

(t) Each Quality Assurance Agency shall maintain all reports, or copies thereof, required by this section for a period of three (3) years from the date of the report.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18020, Health and Safety Code.

HISTORY

1. New section filed 10-6-88 as an emergency; operative 10-6-88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-3-89.
2. The Certificate of Compliance transmitted to OAL 1-31-89 was disapproved. Order of Repeal of 10-6-88 emergency order filed 3-2-89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3-3-89 as an emergency; operative 3-3-89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7-3-89, or emergency language will be repealed.
4. Certificate of Compliance including amendment transmitted to OAL 6-29-89 and filed 7-24-89 (Register 89, No. 32).

§ 4882. Insignia Issuance and Administration.

(a) A Quality Assurance Agency shall apply to the department for insignia on form HCD-MH 440 Application for Insignia By Quality Assurance Agency, dated May 1989 and provided by the department and shall contain the following information at Section 1—Request for HCD Insignia:

(1) The Quality Assurance Agency name, agency number, address and telephone number.

(2) Identification of whether the type of insignia ordered is either recreational vehicle, mobile home, commercial coach or special purpose commercial coach. The Quality Assurance Agency shall request only one type of insignia on an application.

(3) Identification of the type of method used to determine the insignia fee as follows:

(A) Method I—Identify the number of recreational vehicle insignia requested and multiply by the recreational vehicle insignia fee specified in Section 4044(h)(2).

(B) Method II—Identify the number of special purpose commercial coach insignia requested.

(C) Method III—Identify the number of mobile home or commercial coach insignia requested and multiply by the insignia fee for mobile home and commercial coach specified in Section 4044(h)(1) and enter the amount at Line (A).

Calculate the credits due the Quality Assurance Agency for previous mobile home or commercial coach insignia (as appropriate) reported to the department as assigned to specific sections. Multiply the credits due by the insignia fee for mobile home and commercial coach specified in Section 4044(h)(1) and enter the amount at Line B. (One credit may be taken for each insignia issued to a manufacturer for the 2nd, 3rd, etc. section of a multi-section mobile home or commercial coach.)

Subtract Line (B) from Line (A) to determine the fee due the department and enter the amount at Line (C).

(4) The signature and printed name of the Insignia Administrator and the date that the request for insignia was signed.

(5) Upon completion of Section 1, the Quality Assurance Agency shall retain the pink copy and mail the white, canary and blue copies to the department along with the appropriate insignia fees.

(b) The department shall complete Section 2—Insignia Shipment, on form HCD-MH 440, Application For Insignia By Quality Assurance Agency, dated May 1989 upon receipt and acceptance of the Quality Assurance Agency's request for insignia, and the appropriate insignia fee required by Section 4044. Section 2 shall contain the following information:

(1) Indication of whether the type of insignia shipped is recreational vehicle, mobile home, commercial coach or special purpose commercial coach.

(2) The amount of available credits.

(3) The quantity of insignia shipped.

(4) The numerical sequence of insignia issued beginning with the first insignia control number and including the last insignia control number.

(5) The name of the authorized person issuing the insignia and the date of issuance.

(c) The department shall retain the blue copy and mail the white and canary copy to the Quality Assurance Agency with the insignia requested.

(d) Upon the Quality Assurance Agency's receipt of insignia from the department, the Quality Assurance Agency shall provide the following information at Section 3—Insignia Receiving Report on form HCD-MH 440 Application for Insignia by Quality Assurance Agency, dated May 1989:

(1) The date the insignia shipment was received.

(2) The quantity of insignia received.

(3) The numerical sequence of insignia issued beginning with the first insignia control number and including the last insignia control number.

(4) The signature and printed name of the Insignia Administrator, certifying that the insignia received is in satisfactory condition and correct according to type of insignia requested, quantity ordered and numerical sequence. The Insignia Administrator shall also certify to the unsatisfactory condition of insignia received by identifying insignia that is damaged, misprinted, missing, duplicated or possessing other unsatisfactory characteristics and identify the insignia number(s) affected.

(5) Upon completion of Section 3, the Quality Assurance Agency shall retain the canary copy and mail the white copy to the department along with insignia identified as damaged, misprinted, duplicated or possessing other unsatisfactory characteristics.

(e) The Quality Assurance Agency shall not request more than a thirty (30) day supply of insignia.

(f) The insignia remain the sole property of the department. A Quality Assurance Agency shall return the insignia when the agency terminates activity or when so ordered by the department.

(g) The Quality Assurance Agency is responsible for accounting for each insignia received from the department from the time of receipt until issued to a manufacturer. Insignia security procedures shall be established and an Insignia Administrator shall be designated to maintain insignia administration and security.

(h) The Quality Assurance Agency shall require each manufacturer to establish and maintain an insignia security procedure. The Quality Assurance Agency shall refuse to issue insignia to a manufacturer unless the manufacturer establishes and maintains adequate insignia security procedures. If a manufacturer does not establish and maintain adequate insignia security, the Quality Assurance Agency shall affix the insignia to finished and complying units at the time of inspection.

(i) The insignia security procedures established by the Quality Assurance Agency and each manufacturer shall minimize the potential for insignia loss, damage, theft and misappropriation. The procedures shall provide for storage of insignia in a lockable device when the insignia are left unattended. The device shall be of a type which cannot be opened except by a key or combination and except by the Insignia Administrator and shall be of such size or attachment to a floor or wall that it cannot be easily removed from the room where it is kept. The room where insignia are kept shall be locked when unattended. In the case of the manufacturer, the procedure for issuance of insignia shall be restricted to only personnel trained in insignia security procedures.

(j) The Quality Assurance Agency shall not permit a manufacturer to accumulate more than a thirty (30) day supply of insignia.

(k) The Quality Assurance Agency shall investigate the loss, destruction or misappropriation of insignia, including insignia issued to a client manufacturer. As an attachment to the report required by Section 4880(d), the Quality Assurance Agency shall submit a written investigative report to the department which identifies any insignia lost, stolen, damaged or misappropriated during the reporting month, and which describes the investigation, the circumstances which led to the occurrence, and the measures taken in order to eliminate a recurrence.

(l) The Quality Assurance Agency may charge a manufacturer for insignia and insignia administration, in addition to the charges for inspection.

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Sections 18020 and 18026, Health and Safety Code.

HISTORY

1. New section filed 10-6-88 as an emergency; operative 10-6-88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-3-89.
2. The Certificate of Compliance transmitted to OAL 1-31-89 was disapproved. Order of Repeal of 10-6-88 emergency order filed 3-2-89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3-3-89 as an emergency; operative 3-3-89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7-3-89, or emergency language will be repealed.
4. Certificate of Compliance including amendment transmitted to OAL 6-29-89 and filed 7-24-89 (Register 89, No. 32).

§ 4884. Fees.

(a) Application for Design Approval Agency Approval: Three hundred forty-nine dollars ($349)

(b) Application for Quality Assurance Agency Approval: Three hundred forty-nine dollars ($349)

(c) Application for Quality Assurance Inspector: Two hundred ninety-five dollars ($295)

(d) Application for Design Approval Agency Approval Renewal: Three hundred two dollars ($302)

(e) Application for Quality Assurance Agency Approval Renewal: Three hundred two dollars ($302)

(f) Application for Quality Assurance Inspector Approval Renewal: Two hundred sixty-seven dollars ($267)

(g) Change of Third-Party Name, or Address: Sixty-two dollars ($62)

(h) Change of Quality Assurance Inspector Name or Address: Sixty-two dollars ($62)

(i) Plan Approval Monitoring:

(1) for plans relating to a manufactured home, mobilehome, multi–unit manufactured housing or commercial modular: Forty–four dollars ($44); and

(2) for plans relating to a special purpose commercial modular: Forty–four dollars ($44).

(j) Plan Approval Monitoring, for Quality Control Manuals: Forty–two dollars ($42)

(k) Plan Approval Monitoring, for Amendments to Approved Plans or Manuals: Thirty dollars ($30).

NOTE: Authority cited: Section 18020, Health and Safety Code. Reference: Section 18031, Health and Safety Code.

HISTORY

1. New section filed 10–6–88 as an emergency; operative 10–6–88 (Register 88, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–3–89.
2. The Certificate of Compliance transmitted to OAL 1–31–89 was disapproved. Order of Repeal of 10–6–88 emergency order filed 3–2–89 by OAL pursuant to Government Code Section 11349.6 (Register 89, No. 11).
3. New section filed 3–3–89 as an emergency; operative 3–3–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days, by 7–3–89, or emergency language will be repealed.
4. Certificate of Compliance transmitted to OAL 6–29–89 and filed 7–24–89 (Register 89, No. 48).
5. Amendment filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

Appendix RV–P–1

Wall Surfacing for Tub and Shower Enclosures

I. Material: The wall covering material must have an exposed surface that is impervious to water; the substrate material must be resistant to deterioration from exposure to high humidity and temporary water leakage.

A. Strength: The complete wall assembly, including the wall covering substrate, shall be capable of withstanding a uniform load of five pounds per square foot applied perpendicular to the surface. The deflection, under load, shall not exceed 1/180 of the height of the wall, for the assembly; or 1/240 the distance between framing members, for the wall covering substrate.

B. Surface Finish: The exposed surface must meet the minimum requirements of the American Hardboard Association PS–59–73, Prefinished Hardboard Paneling, Class 1, as certified by the panel manufacturer.

C. Size: The minimum thickness of the material shall be 1/8″ nominal. The width to be sufficient to give continuous unbroken surface from corner to corner, or end of tub in corner installation, in an installation incorporating a shower, the unbroken surface must continue to a height of at least 6′ above the floor of the shower.

D. Type: The substrate material shall also meet the requirements of the appropriate standard listed below:

(1) Hardboard: of high strength and water resistance to meet Commercial Standard CS–251–63, or AHA PS 58–73, either standard or tempered.

(2) Softwood Plywood: must meet U.S. Product Standard P.S. 1–66 including exterior type glue line and grade A face veneer "suitable for painting."

(3) Hardwood Plywood: must meet PS–51–71 Type II glue line and sound grade face veneer.

(4) Other Materials: not meeting D–1, D–2, D–3 above, shall meet the requirements of this code and their appropriate Product Standard, Industry Standard, Commercial Standard, of Federal Specification.

II. Installation: The material must be installed in conformance with this code and the application instructions provided by the material manufacturer. In case of conflict, this regulation shall take precedence.

A. Framing: Wood framing shall be spaced not more than 16″ o.c. Blocking shall be 1″ x 3″ or equal, installed horizontally at height to match rim of the tub or shower pan. All corners shall have sufficient framing members for attachment of corner moldings.

B. Fastening: All edges and ends of panel shall occur on framing members. Panels shall be applied to wood framing members using water resistant, non–hard setting adhesive. Adhesive shall be applied to the face of all framing members except locations where panel edges fall beneath applied moldings. Panels may also be applied over solid backing using an adhesive.

NOTE: Fasteners, if necessary, shall be used only in locations where they will be covered by applied moldings, and shall be used on not more than two adjacent edges. No other interior fasteners, or fixtures, other than required functional plumbing fixtures shall penetrate the face of the panel. Openings for these plumbing fixtures must be sealed with caulk.

C. Corners and Edges: All corners and edges must be caulked or sealed against moisture penetration. A non–hard setting sealant material must be used with applied moldings. Fastening of moldings to framing shall not be greater than 6″ o.c.

HISTORY

1. Amendment filed 4–3–78; effective thirtieth day thereafter (Register 78, No.14).

Appendix A

Provisions of California Health and Safety code Relating to Mobilehomes, Recreational Vehicles and Commercial Coaches

HISTORY

1. New Appendix A filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
2. Amendment filed 12–7–79; effective thirtieth day thereafter (Register 79, No. 49).
3. Change without regulatory effect repealing Appendix filed 3–19–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 12).

Appendix B

Provisions of the National Mobile Home Construction and Safety Standards Act

HISTORY

1. New Appendix B filed 6–9–77; designated effective 9–1–77 (Register 77, No. 24).
2. Change without regulatory effect repealing Appendix B filed 7–12–93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 29).

Subchapter 3. Mobile Home Occupational Licensing

NOTE: Authority cited: Sections 18070–18074.99, Health and Safety Code (Governor's Reorganization Plan No. 1, 1980). Reference: Sections 18000–18080, Health and Safety Code.

HISTORY

1. New Subchapter 3 (Sections 5000–5005) filed 6–30–80 as an emergency; effective upon filing (Register 80, No. 27). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 10–28–80.
2. Certificate of Compliance filed 10–27–80 (Register 80, No. 44).
3. Repealer of Subchapter 3 (Article 1, Sections 5000–5005) and new Chapter 4 (Sections 5000–5049, not consecutive) filed 12–10–80; effective upon filing (Register 80, No. 50).

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CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Division 1. Housing and Community Development

Chapter 4. Manufactured Housing Sales, Occupational Licensing and Education

Vol. 33

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Chapter 4. Manufactured Housing Sales, Occupational Licensing and Education

Subchapter 1. Sales and Occupational Licensing

Article 1. General

§ 5000. Authority.

This chapter is adopted in order to implement, interpret and make specific and otherwise carry out the manufactured home, mobilehome and commercial coach occupational licensing requirements of Chapters 5, 6, and 7 (commencing with Sections 18035) of Division 13, Part 2, of the Health and Safety Code, Sections 1797, et seq., of the Civil Code, and Chapter 3 (commencing with Section 15374) of Title 2, Division 3, Part 6.7 of the Government Code.

NOTE: Authority cited: Section 18015, Health and Safety Code, and Section 15376, Government Code. Reference: Sections 18000–18066.5, Health and Safety Code; and Sections 1797 et seq., Civil Code; and Sections 15374–15378, Government Code.

HISTORY

1. Repealer of Chapter 3, Subchapter 3 (Sections 5000–5005) and new Chapter 4 (Sections 5000–5049, not consecutive) filed 12–10–80; effective upon filing (Register 80, No. 50). For history of former Chapter 4, see Register 77, No. 24.
2. Repealer of Chapter 4 (Sections 5000–5049, not consecutive) and new Chapter 4 (Sections 5000–5083, not consecutive) filed 7–7–82 as an emergency; effective upon filing (Register 82, No. 28). For prior history, see Registers 82, No. 10, and 81, No. 39. A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–4–82.
3. Certificate of Compliance including amendments transmitted to OAL 11–3–82 and filed 12–15–82 (Register 82, No. 51).
4. Amendment filed 2–1–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 5001. Application and Scope.

(a) The provisions of this chapter apply to all persons acting as a manufacturer, distributor, dealer, or salesperson of manufactured homes, mobilehomes, or commercial coaches as defined by Sections 18000–18014 of the Health and Safety Code.

(b) The provisions of this chapter also apply to all persons acting in the capacity of a 90–day certificate holder as defined in Section 5002 of this chapter.

(c) These provisions regulate the occupational licensing of and business practices of licensees regarding the manufacture, alteration, sale or lease of manufactured homes, mobilehomes or commercial coaches.

(d) To the extent permitted by law, these provisions provide for regulation of transporters of manufactured homes, mobilehomes and commercial coaches.

(e) These provisions regulate the application process and requirements for the department and persons applying for a license or 90–day certificate pursuant to law and this chapter.

NOTE: Authority cited: Sections 18015 and 18052.6, Health and Safety Code, and Section 15374, Government Code. Reference: Sections 18035–18066.5, Health and Safety Code; Sections 1797–1797.7, Civil Code; and Sections 15374–15378, Government Code.

HISTORY

1. Amendment of subsection (a) and new subsection (d) filed 2–1–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 5).
2. Amendment of subsection (a), adoption of subsection (b) and subsection renumbering, and amendment of subsection (e) and NOTE filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

§ 5002. Definitions.

The following definitions and those set forth or referenced in Health and Safety Code Sections 18000 through 18153, shall govern the activities under this chapter:

(a) Accessory. Any additional structure, air–conditioning unit, driveway, landscaping, skirting, awning, carport, shed, porch, or other items contracted for and included in the purchase document for the purchase or lease of a manufactured home, mobilehome and/or its installation site.

(b) Acknowledged. When used in this chapter means either notarized or attested to by a subscribing witness.

(c) Advertising. Any statement, representation, act or announcement intentionally communicated to any member of the public by any means whatever, whether orally, in writing or otherwise, generally for the purpose of arousing a desire to buy or patronize.

(d) Cash or cash equivalent. Includes, but is not limited to:

(1) Cash, checks, money orders, or drafts.

(2) Promissory notes, bills of sale, or certificates of ownership, or other intangible property.

(3) Assignments of funds, proceeds, contracts, rights, or other negotiable instruments.

(4) Any real or personal property.

(e) Clock hour. Fifty (50) continuous minutes in an approved preliminary or continuing education course, seminar, or conference excluding breaks for meals, rest, or smoking.

(f) Close of escrow. The date on which the conditions of the escrow have been met and the escrow agent is in a position to disburse all funds excepting funds withheld for uninstalled or undelivered accessories included in the purchase price.

(g) Continuing Education Course. A class, seminar or conference approved by the department, pursuant to law and this chapter, which offers licensees continuing education clock hour credits on one topic.

(h) Correspondence Course. A continuing education program of a single topic approved by the department transmitted by mail between a licensee and an approved course provider.

(i) Course Provider. A person or entity offering preliminary or continuing education courses approved by the department. A course provider meeting the minimum qualifications established in this chapter may also be an approved instructor.

(j) DOJ. The California Department of Justice.

(k) Instructor. A person approved by the department to present preliminary or continuing education courses while in the employ of a course provider. An instructor may also be a course provider.

(l) Live Scan. Digitally scanned fingerprinting using the electronic process certified by DOJ at an approved facility.

(m) Manufactured Home. A structure as defined by section 18007 of the Health and Safety Code.

(n) Manufacturer's Suggested Retail Price. The total price shown on the label required by Health and Safety Code Section 18032.

(o) Mobilehome. A structure as defined by section 18008 of the Health and Safety Code.

(p) Multifamily Manufactured Home. A structure as defined by section 18008.7 of the Health and Safety Code. "Multi–unit manufactured housing" has the same meaning as "multifamily manufactured home", as that term is defined by section 18008.7 of the Health and Safety Code.

(q) 90–day certificate holder. An applicant for an original salesperson license, holding a certificate issued by the department which permits the applicant to perform the following activities while in the employment of a licensed dealer:

(1) A 90–day certificate holder may induce or attempt to induce a person to buy, lease, or exchange an interest in a new or used manufactured home, mobilehome, or commercial modular.

(2) For commission, money, profit, or other thing of value, a 90–day certificate holder may sell, exchange, buy, or lease; offer for sale; negotiate or attempt to negotiate a sale, lease or exchange of an interest in a new or used manufactured home, mobilehome, or commercial modular.

(3) A 90–day certificate holder shall not execute any documents, contracts, or listing agreements, or accept any cash or cash equivalent for the sale or lease of a new or used manufactured home, mobilehome, or commercial modular.

(r) Preliminary Education Course. A class, seminar or conference approved by the department pursuant to law and this chapter relating to laws and regulations governing manufactured home and mobilehome sales, specifically designed for persons not holding a manufactured home or mobilehome dealer or salesperson license.

(s) Purchase document. Any instrument of purchase, regardless of its title, which is prepared by a licensee to effect the sale of a manufactured home, mobilehome or commercial modular to a retail purchaser.

(t) Supervising Managing Employee. A person designated by a licensed dealer of manufactured homes, mobilehomes or commercial modulars as responsible for the direct supervision of 90-day certificate holders employed by the dealer at an established place of business. A supervising managing employee must be:

(1) a salesperson in possession of a valid occupational license as required by this chapter, or

(2) a sole owner dealer, or

(3) a partner in a partnership or a director or officer of a corporation who, as required by this chapter, has been designated as participating in the direction and control of the sales business.

(u) Topic. The subject offered by a preliminary or continuing education course.

(v) Working days. All days except Saturdays, Sundays, and state and federal holidays.

NOTE: Authority cited: Sections 18015 and 18052.6, Health and Safety Code. Reference: Sections 18001.8, 18007, 18008, 18008.7, 18035–18066.5, Health and Safety Code; Sections 1797–1797.7, Civil Code; Sections 17003 and 17004, Financial Code; and Sections 11077.1 and 11102.1, Penal Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Amendment of subsection (d) filed 5-8-86 as an emergency; effective upon filing (Register 86, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-5-86.
3. Amendment filed 11-25-91; operative 12-26-91. (Register 92, No. 12).
4. Repealer of subsection (j) and subsection relettering filed 2-6-98; operative 3-8-98 (Register 98, No. 6).
5. New subsections (j) and (l), subsection relettering, amendment of newly designated subsections (n)(1)–(3), (p) and (q) and amendment of NOTE filed 11-7-2005; operative 11-7-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 45).
6. Change without regulatory effect adding subsections (m), (o) and (p), relettering subsections and amending NOTE filed 7-14-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 29).

Article 2. License and Business Requirements

§ 5010. License.

(a) No person acting as a manufacturer, dealer, distributor or salesperson shall do so from any location without a current and valid occupational license issued pursuant to law or this chapter. Any person in violation of this section shall be liable for appropriate fees pursuant to Section 5040 and a penalty of 50 percent of the license fee in addition to any other civil and/or criminal penalties.

(b) No person acting as a transporter shall do so without a current and valid transportation decal. Any person in violation of this section shall be liable for appropriate fees pursuant to Section 5040 and a penalty of 50 percent of the decal fee in addition to any other civil and/or criminal penalties.

(c) No manufacturer whose established place of business is located outside this state, shall deliver new manufactured homes, mobilehomes or commercial coaches to dealers in this state for the purposes of sale, rent or lease, without a current and valid manufacturer's license issued pursuant to law and this chapter. It is not necessary for a manufacturer to obtain a license in this state for manufacturing sites located outside of the state, provided that the manufacturer has at least one established place of business located within this state licensed by the Department of Housing and Community Development.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18045, 18045.6 and 18062.2, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Amendment of subsections (a) and (e) filed 2-1-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).
3. Repealer of subsections (c)–(d) and subsection relettering filed 2-6-98; operative 3-8-98 (Register 98, No. 6).

§ 5011. Books and Records.

(a) Pertinent books and records of a licensee which relate to the manufacture, purchase, sale, rental, transportation or lease of manufactured homes, mobilehomes or commercial coaches must be available for inspection during normal work hours without prior notice. In the case of an out of state manufacturer, pertinent books and records or copies thereof shall be delivered or mailed to the department for inspection within 10 days of a written request from the department.

(b) In the case of a dealer, pertinent books and records include, but are not limited to, invoices; certificates of origin; identification numbers; report of sales books; purchase documents; lease or rental agreements; receipts for deposit; documents submitted into escrow for the preparation of escrow instructions; escrow instructions; and any other records which relates to the purchase, sale, rental or lease of any manufactured home, mobilehome or commercial coach within this state.

(c) In the case of a manufacturer or distributor, pertinent books and records include, but are not limited to, invoices; certificates of origin; identification numbers; contracts or franchise agreements with dealers; production orders; suggested retail price labels; and any other record which relates to the manufacture, distribution, sale, rent or lease of any manufactured home, mobilehome or commercial coach within this state.

(d) Books and records must be kept on the premises of the licensee's established place of business unless the licensee has designated, on a form prescribed by the department, an alternate site within the state at which the books and records will be maintained and available for inspection. The licensee must notify the department on the prescribed form of any change in location of the books and records at least ten (10) days prior to the date of the change in location.

(e) Unless otherwise specified by law or this chapter, all business records relating to manufactured home, mobilehome or commercial coach transactions shall be retained by the licensee for a period of not less than three (3) years.

(f) When, for any reason, a licensee terminates or suspends business, all department report of sale books, along with all permits, licenses, transportation decals and registration documents therefor, and all salespersons' licenses in possession of a dealer, shall be surrendered to the department upon demand or within ten (10) calendar days after termination or suspension, whichever occurs first.

(g) When, for any reason, a licensee terminates or suspends business, the licensee shall notify the department in writing within 10 days of the termination or suspension, of the location where pertinent books and records will be kept and available for inspection.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18003.6, 18045.5, 18045.6, 18054 and 18062.2, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Amendment of subsection (a) and new subsection (g) filed 2-1-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 5012. Manufacturer's Established Place of Business.

The applicant for, or holder of, a manufactured home, mobilehome or commercial coach manufacturer's license shall maintain a suitable site sufficient in size and furnishings to effect the manufacture, assembly, reconstruction or reconfiguration of manufactured homes, mobilehomes or commercial coaches.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18003.6, 18006.3 and 18045.5, Health and Safety Code.

HISTORY

1. Repealer of subsection (a) designator filed 2–6–98; operative 3–8–98 (Register 98, No. 6).

§ 5013. Dealer's Established Place of Business.

The applicant for, or holder of, a manufactured home, mobilehome or commercial coach dealer's license shall maintain an established place of business. The office of an established place of business of a dealer must be constructed such that it is not temporary, transitory or mobile in nature. The office must comply with applicable construction standards and local

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zoning regulations. A manufactured home, mobilehome or commercial coach is acceptable, provided that it is not a part of the dealer's inventory and is not being offered for or subject to sale while being used as an office, and otherwise meets the requirements of law.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18003.6, 18045.5 and 18045.6, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment of subsection (a) transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Repealer of subsection (a) and subsection (b) designator and amendment of remaining paragraph filed 2-6-98; operative 3-8-98 (Register 98, No. 6).

§ 5014. Display Area.

NOTE: Authority cited: Sections 18015 and 18045.5(b), Health and Safety Code. Reference: Sections 18045.5 and 18045.6, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment of subsection (b) transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Repealer filed 11-25-91; operative 12-26-91. (Register 92, No. 12).

§ 5015. Dealer Branch Locations.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18045.6, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Amendment of subsection (b) filed 2-1-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 5).
3. Repealer filed 11-25-91; operative 12-26-91. (Register 92, No. 12).

Article 3. License and 90-Day Certificate Applications, Changes and Renewals

§ 5020. Application Requirements.

(a) An application for an occupational license or 90-day certificate shall contain that information required by the department, including, but not limited to, the forms and items listed in this section.

(b) Applicants for licenses pursuant to this section shall present documentation necessary to determine an applicant's eligibility to receive public benefits pursuant to Chapter 5.5 of this division, beginning with Section 5802 of this subchapter.

(c) If the applicant is a partnership or corporation, the names and titles of all controlling partners, stockholders, directors, general managers and officers who are permitted to direct, control or manage the manufacturing or sales affairs of the applicant or licensee, subject to law or this chapter, shall be disclosed.

(d) Manufacturer license. The following forms and items are required to be submitted by applicants for a manufacturer's license:

(1) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, HCD OL 12 (Rev. 11/05);

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, HCD OL 29 (Rev. 11/05), for each person shown on Part A;

(3) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors and Dealers, Part C, HCD OL 21 (Rev. 11/05), for each established place of business;

(4) For each person shown on Part A, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of form HCD OL 8016 (New 11/05), "Request for Live Scan Service" or the equivalent form provided by DOJ. The HCD OL 8016 form or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprinting must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation;

(5) Two full facial photographs of each person shown on Part A, minimum size 1 1/4" x 1", taken from a maximum distance of six (6) feet;

(6) Business photographs: One photograph showing the manufacturing area and one photograph of the exterior of the office for each established place of business;

(7) A list of model or brand names to be manufactured at each established place of business;

(8) An explanation of the serial numbers configuration to be assigned to manufactured homes, mobilehomes or commercial modulars;

(9) The original license application fee specified in Section 5040 of this subchapter for each established place of business.

(e) Distributor License. The following forms and items are required to be submitted by applicants for a distributor's license:

(1) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 11/05), which is incorporated by reference;

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 11/05), which is incorporated by reference, for each person shown on Part A;

(3) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors and Dealers, Part C, form HCD OL 21 (Rev. 11/05), which is incorporated by reference, for each established place of business;

(4) For each person shown on Part A, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of form HCD OL 8016 (New 11/05), "Request for Live Scan Service", which is incorporated by reference, or the equivalent form provided by DOJ. The HCD OL 8016 form or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation;

(5) Two full facial photographs of each person shown on Part A, minimum size 1 1/4" x 1", taken from a maximum distance of six (6) feet.

(6) Business photographs: One photograph showing the exterior of the office for each established place of business;

(7) A list of the name, address, brands and models of each manufacturer whose line will be distributed;

(8) An explanation of the manufacturer's serial numbers configuration assigned to manufactured homes, mobilehomes or commercial modulars;

(9) The original license application fee specified in Section 5040 of this subchapter for each established place of business.

(f) Dealer License. The following forms and items are required to be submitted by applicants for a dealer's license:

(1) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 11/05), which is incorporated by reference;

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 11/05), which is incorporated by reference, for each person shown on Part A;

(3) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors and Dealers,

Part C, form HCD OL 21 (Rev. 11/05), which is incorporated by reference, for each established place of business;

(4) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Dealers, Part D, HCD OL 50 (Rev. 11/05), which is incorporated by reference;

(5) For each person shown on Part A, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of form HCD OL 8016 (New 11/05), "Request for Live Scan Service", which is incorporated by reference, or the equivalent form provided by DOJ. The HCD OL 8016 form or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation;

(6) Two full facial photographs of each person shown on Part A, minimum size 1 1/4" by 1", taken from a maximum distance of six (6) feet;

(7) Business photographs: One photograph showing the exterior of the office of each established place of business;

(8) Certificate of Appointment, form HCD OL 28 (Rev. 11/05), which is incorporated by reference;

(9) A Letter of Authorization from, and a copy of any franchise or contractual agreement with, each manufacturer indicating its approval to sell manufactured homes, mobilehomes or commercial modulars at the address of the established place of business (NOT required of dealers selling only used manufactured homes, mobilehomes, or commercial modulars);

(10) Proof of successful passage by each person shown in Part A of the Manufactured Home/Mobilehome or Commercial Modular Dealer Examination, as required by law and Section 5022 of this subchapter, within six months prior to the application date;

(11) A sample of all purchase documents to be used, including but not limited to, purchase orders, conditional sales contracts, security agreements, or other instruments of purchase, and receipts of deposit;

NOTE: Issuance of a license is not to be construed as approval of the contents of such documents or their legal sufficiency.

(12) A list of all names, license numbers and home addresses of all salespersons and managing employees to be employed at each established place of business;

(13) The original license application fee specified in Section 5040 of this subchapter for each established place of business.

(g) Salesperson License. The following forms and items are required to be submitted by applicants for a salesperson's license:

(1) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Salespersons, Part A, form HCD OL 16 (Rev. 11/05), which is incorporated by reference;

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 11/05), which is incorporated by reference;

(3) For each person shown on Part A, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of form HCD OL 8016 (New 11/05), "Request for Live Scan Service", which is incorporated by reference, or the equivalent form provided by DOJ. The HCD OL 8016 form or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation;

(4) Two full facial photographs of each person shown on Part A, minimum size 1 1/4" by 1", taken from a maximum distance of six (6) feet;

(5) Proof of successful passage of the manufactured home/mobilehome or commercial modular salesperson examination, as required by law and Section 5022 of this subchapter, within six months prior to the application date.

(6) The original license application fee specified in Section 5040 of this subchapter.

(h) 90-Day Certificate.

(1) Any person applying for a 90-day certificate shall submit an application to the department on form HCD-OL 90, "Application for Manufactured Home/Mobilehome/Commercial Modular 90-Day Certificate," (Rev. 11/05), which is incorporated by reference, as set forth in subsection (h)(2). This form is provided by the department.

(2) Form HCD-OL 90, "Application for Manufactured Home/Mobilehome/Commercial Modular 90-Day Certificate," (Rev. 11/05), which is incorporated by reference.

(3) The original 90-day certificate application fee specified in Section 5040 of this subchapter.

(4) Concurrent with the submission to the department of a completed form HCD-OL 90, "Application for Manufactured Home/Mobilehome/Commercial Modular 90-Day Certificate," (Rev. 11/05), which is incorporated by reference, the applicant shall also submit a completed application for license as a salesperson, in accordance with Sections 5020(a) and 5020(g) of this subchapter, with the exception of the following items:

(A) Proof of successful passage of the manufactured home/mobilehome or commercial modular salesperson examination as required by Section 5020(g)(5) of this subchapter;

(B) Proof of completion of a preliminary education program as required by Section 5302(c) of this subchapter; and

(C) The original salesperson license application fee specified in Section 5040(d)(1) of this subchapter as required by 5020(g)(6) of this subchapter.

(i) 90-Day Certificate Holder Converting to a Salesperson License Holder.

(1) All 90-day certificate holders, wishing to convert to a licensed salesperson, shall provide the department with the following no later than three months after the expiration of their 90-day certificate:

(A) Proof of successful passage of the manufactured home/mobilehome or commercial modular salesperson examination as required by Section 5020(g)(5) of this subchapter;

(B) Proof of completion of a preliminary education program as required by Section 5302(c) of this subchapter; and

(C) The original salesperson license application fee specified in Section 5040(d)(1) of this Chapter as required by 5020(g)(6) of this subchapter.

(D) Items required by subparagraphs (A), (B), and (C) of this subdivision shall be provided to the department accompanied by the 90-day certificate.

(2) Notwithstanding the three-month period permitted for completion of the salesperson application process outlined in Section 5020(i)(1) of this subchapter above, no holder of an expired 90-day certificate shall act in the capacity of a 90-day certificate holder or licensed salesperson until receiving a valid certificate or salesperson license.

(3) Conversion applicants failing to comply with the provisions of Section 5020(i)(1) of this subchapter shall meet all salesperson license application requirements as a new applicant in accordance with Section 5020(g) of this subchapter.

NOTE: Authority cited: Sections 18015, 18031, 18050(c), 18052 and 18075, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 18001.8, 18053.5 and 18056.2, Health and Safety Code; and Sections 11077.1 and 11102.1, Penal Code.

HISTORY

1. Certificate of Compliance including amendment of subsection (f)(13) transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).

2. Amendment filed 2–1–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 5).
3. Amendment filed 5–8–86 as an emergency; effective upon filing (Register 86, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–5–86.
4. Reinstatement of section as it existed prior to emergency amendment filed 5–8–86 by operation of Government Code section 11346.1(f) (Register 86, No. 50).
5. Editorial correction of printing errors in subsections (d)(6) and (8) and (e)(7) (Register 91, No. 32).
6. Amendment filed 11–25–91; operative 12–26–91. (Register 92, No. 12).
7. New subsection (b), subsection relettering, repealer of former subsections (g)–(g)(2) and amendment of NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
8. New subsection (b), subsection relettering, repealer of former subsections (g)–(g)(2) and amendment of NOTE refiled 8–4–98 as an emergency, including amendment of subsection (f)(6); operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 8–4–98 order, including amendment of subsection (b), transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).
10. Amendment of section, including repealer of form HCD–OL 90, and amendment of NOTE filed 11–7–2005; operative 11–7–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 45).
11. Amendment of article 3 heading filed 12–29–2005; operative 1–1–2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 5020.5. License and 90–Day Certificate Application Review and Notice of Department Decision.

(a) Within 7 calendar days of receiving applications in the office designated on the application forms for an occupational license, the department shall review each license application received pursuant to this chapter, and notify the applicant in writing of either the acceptance of the application for filing, or the rejection of the application due to incompleteness or errors, specifically identifying the incompleteness or errors and what must be done in order to make the application complete and acceptable.

(b) Within 120 calendar days of receiving a completed and acceptable application, the department shall conduct an investigation pursuant to Health and Safety Code Section 18052 of each person identified on the application, and each proposed place of business within this state; determine if the provisions of law and this chapter applicable to the application have been satisfied, and either issue a license or a written notice of refusal. The written notice of refusal shall specify the reasons why approval may not be granted.

(c) A survey conducted pursuant to Government Code Section 15376 of the department's performance determined the minimum, median and maximum elapsed time between receipt of a completed application for a manufacturer, distributor, or dealer license or transportation decal and reaching a final decision; the results are as follows:

(1) Minimum: 21 calendar days

(2) Median: 63 calendar days

(3) Maximum: 463 calendar days

(d) A survey conducted pursuant to Government Code Section 15376 of the department's performance determined the minimum, median and maximum elapsed time between receipt of a completed application for a salesperson license and reaching a final decision; the results are as follows:

(1) Minimum: 15 calendar days

(2) Median: 57 calendar days

(3) Maximum: 344 calendar days

(e) The department may exceed the maximum time as provided in subsections (a) and (b), if any of the following occurs:

(1) the number of applications is 15 percent greater than for the same calendar quarter of the preceding year.

(2) the department's application processing is delayed due to fingerprint rejection or fingerprint processing by the California Department of Justice or the Federal Bureau of Investigation.

(f) For 90–day certificate applications, the department's processing times, from receipt of an application to either issuance of the certificate or refusal of issuance of the certificate, shall be as follows:

Minimum: 1 working day

Maximum: 7 working days

(g) The applicant may appeal directly to the Director of the Department and/or the Secretary of the Business, Transportation and Housing Agency for a timely resolution of any dispute arising from a violation of the time periods within which the department must process the application. The appeal shall be decided in the applicant's favor if the department has exceeded the established maximum time period of issuance or denial of the license or 90–day certificate and the department has failed to establish good cause for exceeding the time period. If the appeal is decided in the applicant's favor, the applicant shall receive full reimbursement of any and all filing fees paid to the department.

NOTE: Authority cited: Section 15376, Government Code; and Section 18052.6, Health and Safety Code. Reference: Section 15376, Government Code; and Sections 18050 and 18052.6, Health and Safety Code.

HISTORY

1. New section filed 2–1–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).
2. Amendment of subsections (a) and (b), adoption of subsections (f) and (g) and amendment of NOTE filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

§ 5021. Abbreviated Application for Applicants with Business or Personal History Irregularities.

(a) Occupational license applicants with previous business or personal history irregularities wishing to determine licensing eligibility may submit an abbreviated application with the following items:

(1) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 11/05), which is incorporated by reference.

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 11/05), which is incorporated by reference.

(3) For each applicant shown on Part A, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of form HCD OL 8016 (New 11/05), "Request for Live Scan Service", which is incorporated by reference, or the equivalent form provided by DOJ. The HCD OL 8016 form or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ–certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation;

(4) Non–refundable original application fee, specified by Section 5040 of this subchapter.

(b) After the department has determined from the abbreviated application that an applicant is eligible, all other forms and items required by Section 5020 of this subchapter must be submitted to the department before a license or temporary permit will be issued.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18001.8, 18031, 18045, 18050, 18050.5 and 18052, Health and Safety Code; and Sections 11077.1 and 11102.1, Penal Code.

HISTORY

1. Amendment filed 2–1–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).
2. Amendment of section and NOTE filed 11–7–2005; operative 11–7–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 45).

§ 5022. Examinations.

(a) Each applicant for a dealer or salesperson license shall take and successfully complete an examination administered by the department as specified in this section. On or after January 1, 1987, each person applying for the manufactured home/mobilehome dealer or salesperson examination shall provide proof of having attended an approved prelimi-

nary education program within the six (6) month period prior to the date of application for the license examination. Proof of attendance shall be evidenced by a serial number of a Certificate of Completion issued pursuant to Section 5322.

(b) Applicants for a dealer license subject to the examination requirement shall successfully complete the Manufactured Home/Mobilehome Dealer Examination or, in the case of an applicant wishing to sell only commercial coaches, the Commercial Coach Dealer Examination.

(c) All applicants for a salesperson license shall successfully complete the Manufactured Home/Mobilehome Salesperson Examination or, in the case of an applicant wishing to sell only commercial coaches, the Commercial Coach Salesperson Examination.

(d) Holders of and applicants for a commercial coach dealers or salespersons license wishing to sell manufactured homes or mobilehomes will be required to take and successfully complete the applicable Manufactured Home/Mobilehome Examination.

(e) Holders of a valid salesperson license applying for a dealer license shall take and successfully complete the appropriate Dealer Examination.

(f) Holders of a continuously valid dealer license issued in this state on or after July 1, 1976, applying for a salesperson license will not be subject to the examination requirement.

(g) The examination of any applicant found leaving the prescribed examination area or using reference material of any kind before completion and return of the examination for correction or otherwise cheating will be given a failing grade.

(h) All disputes or questions concerning the department's examination questions, answers, or examination procedures shall be submitted to the department in writing.

(i) For each examination taken, the applicant shall pay a non–refundable fee as specified in Section 5040.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18053.5 and 18056.2, Health and Safety Code.

HISTORY

1. Amendment filed 2–1–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).
2. Amendment of subsection (a) filed 5–8–86 as an emergency; effective upon filing (Register 86, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–5–86.
3. Reinstatement of subsection (a) as it existed prior to emergency amendment filed 5–8–86 by operation of Government Code Section 11346.1(f) (Register 86, No. 50).
4. Amendment of subsection (a) filed 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
5. Certificate of Compliance including amendment of subsection (a) transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).
6. Amendment of subsection (a) filed 11–5–87; operative 12–5–87 (Register 87, No. 46).

§ 5023. Temporary Permits.

The department, after a preliminary investigation of department records and of the information provided by the applicant for an Occupational License, and determining compliance with the applicable provisions of Section 5020, may issue a temporary permit allowing the applicant to operate as a licensee for a period not to exceed 120 days pending the completion of the investigation of the applicant required by law. A temporary permit is subject to cancellation by the department as provided by law.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18052, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11–3–82 and filed 12–15–82 (Register 82, No. 51).
2. Amendment filed 2–1–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 5023.5. 90–Day Certificate Contents and Posting.

(a) The 90–day certificate issued by the department shall contain but is not limited to the following information:

(1) The 90–day certificate holder's name;

(2) The employing dealership name, location of employment, and the dealer's occupational license number;

(3) The 90–day certificate effective date and expiration date; and

(4) The 90–day certificate number issued by the department.

(b) Upon delivery by the 90–day certificate holder of his or her 90–day certificate to the employing dealer, the employing dealer shall post the certificate in a place conspicuous to the public on the premises where the 90–day certificate holder is actually engaged in the selling or leasing of manufactured homes, mobilehomes, or commercial coaches for the employing dealer. The 90–day certificate shall be displayed continuously during the 90–day certificate holder's employment.

(c) An expired 90–day certificate shall not be posted at the dealer's place of business, but shall be returned to the 90–day certificate holder for forwarding to the department.

NOTE: Authority cited: Section 18015 and 18052.6, Health and Safety Code. Reference: Sections 18052.6, 18052.7 and 18063, Health and Safety Code.

HISTORY

1. New section filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

§ 5024. Established Place of Business Relocation, Elimination or Addition.

Any licensee relocating, eliminating or adding an established place of business shall notify the department at least ten (10) days prior to the effective date of the change.

(a) Manufacturers, dealers and/or distributors relocating the site of the established place of business must notify the department by the submittal of the following forms and items for each established place of business relocation.

(1) Occupational License Application for Manufactured Home/Mobilehome/Commercial Coach Manufacturers, Distributors, and Dealers, Part A.

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Coach Manufacturers, Distributors, and Dealers, Part C, for each established place of business.

(3) Photographs: One photograph showing the exterior of the new office. In addition, manufacturers must submit one photograph showing the new manufacturing area.

(4) The Relocation of Business Fee specified by Section 5040.

(b) Manufacturers, dealers and/or distributors eliminating established places of business must notify the department by the submittal of Application for Occupational Licensing, Part A.

(c) Manufacturers adding an established place of business must notify the department by the submittal of the following forms and items for each new established place of business.

(1) Occupational License Application for Manufactured Home/Mobilehome/Commercial Coach Manufacturers, Distributors, and Dealers, Part A.

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Coach Manufacturers, Distributors, and Dealers, Part C, for each new established place of business.

(3) Photographs of each new established place of business: one photograph showing the manufacturing area and one photograph of the exterior of the office.

(4) The original license application fee specified by Section 5040 for each new established place of business, prorated in accordance with Section 5030(g).

(d) Dealers adding an established place of business must notify the department by the submittal of the following forms and items for each new established place of business.

(1) Occupational License Application for Manufactured Home/Mobilehome/Commercial Coach Manufacturers, Distributors, and Dealers, Part A.

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Coach Manufacturers, Distributors, and Dealers, Part C, for each new established place of business.

(3) Photographs of each new established place of business: one photograph showing the exterior of the office.

(4) A Letter of Authorization from, and a copy of any franchise or contractual agreement with, each manufacturer indicating its approval to sell manufactured homes, mobilehomes or commercial coaches at each new established place of business address (NOT required of used dealers).

(5) A list of any new manufacturers' names, addresses and brand names or model designations to be offered for sale.

(6) A list of names, home addresses and license numbers of all salespersons and managing persons to be employed at each new established place of business.

(7) The original license application fee specified by Section 5040 for each new established place of business, prorated in accordance with Section 5030(g).

(c) Distributors adding an established place of business must notify the Department by the submittal of the following forms and items for each new established place of business.

(1) Occupational License Application for Manufactured Home/Mobilehome/Commercial Coach Manufacturers, Distributors, and Dealers, Part A.

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Coach Manufacturers, Distributors, and Dealers, Part C, for each new established place of business.

(3) One photograph showing the exterior of the office.

(4) A list of any new manufacturers' names, addresses and brand names or model designations to be distributed from each new established place of business.

(5) A copy of the warranty to be offered with the sale of new manufactured homes or mobilehomes.

(6) The original license application fee specified by Section 5040 for each new established place of business, prorated in accordance with Section 5030(g).

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18045.6 and 18055, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Amendment filed 2-1-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 5).
3. Change without regulatory effect amending subsections (a)(3) and (d)(3) filed 9-15-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 37).

§ 5025. Change of Ownership.

(a) Every licensee which is changing ownership structure by termination or addition of partners or incorporation, shall notify the department at least ten (10) days prior to the effective date of this change by the submittal of the following:

(1) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, and Dealers, Part A, form HCD OL 12 (Rev. 11/05), which is incorporated by reference.

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, and Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 11/05), which is incorporated by reference, for each new person shown on Part A.

(3) For each person shown on Part A, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of form HCD OL 8016 (New 11/05), "Request for Live Scan Service", which is incorporated by reference, or the equivalent form provided by DOJ. The HCD OL 8016 form or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation;

(4) Two full facial photographs of each new person shown on Part A.

(5) For dealers only, a Certificate of Appointment, form HCD OL 28 (Rev. 11/05), which is incorporated by reference.

(6) For dealers only, proof of successful passage by each new person shown in Part A of the Mobilehome or Commercial Modular Dealer Examination, as required by law and Section 5022 of this subchapter, within six months prior to the application date.

(7) Change of ownership structure by incorporation or change of partner or corporate officer fee specified in Section 5040 of this subchapter, whichever is applicable.

(b) Every license which is a corporation changing the ownership structure by the termination or addition of officers, shall notify the department within at least ten (10) days after the effective date of the change by the submittal of the following:

(1) Notice of Change of Corporate Officer(s) and/or Director(s) form HCD OL 15 (Rev. 11/05), which is incorporated by reference;

(2) Occupational License Application for Manufactured Home/Mobilehome/Commercial Modular Manufacturers, Distributors, Dealers and Salespersons, Part B, form HCD OL 29 (Rev. 11/05), which is incorporated by reference, for each new officer.

(3) For each new officer and/or director, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of form HCD OL 8016 (New 11/05), "Request for Live Scan Service", which is incorporated by reference, or the equivalent form provided by DOJ. The HCD OL 8016 form or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation;

(4) Two full facial photographs of each new officer, minimum size 1 1/4" x 1", taken from a maximum distance of six (6) feet.

(5) For dealers only, proof of successful passage by each new officer and/or director of the Manufactured Home/Mobilehome or Commercial Modular Dealer Examination, as required by law and Section 5022 of this subchapter, within six months prior to the application date;

(6) Addition of partner(s) or corporate officer(s), or elimination of partner or corporate officer fee specified in Section 5040 of this subchapter, whichever applicable.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18001.8, 18050, 18060 and 18065, Health and Safety Code; and Sections 11077.1 and 11102.1, Penal Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 5).
2. Amendment filed 2-1-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 5).
3. Amendment filed 5-8-86 as an emergency; effective upon filing (Register 86, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-5-86.
4. Reinstatement of section as it existed prior to emergency amendment filed 5-8-86 by operation of Government Code section 11346.1(f) (Register 86, No. 50).
5. Change without regulatory effect repealing subsection (a)(5) and renumbering subsequent subsections filed 7-14-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 29).
6. Change without regulatory effect amending NOTE filed 9-15-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 37).
7. Amendment of section and NOTE filed 11-7-2005; operative 11-7-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 45).

§ 5026. Salesperson and 90–Day Certificate Holder; Employment or Change of Employment.

(a) Every dealer shall notify the department in writing within 10 days after the employment or termination of any salesperson.

(b) Every salesperson within 10 days of changing employment shall apply to the department for a replacement license by the submittal of a written notice on the form prescribed by the department and the change of employment fee specified in Section 5040(d)(3).

(c) Every dealer shall notify the department within 10 days after the dealer has terminated the employment of any 90–day certificate holder. Notification shall be provided on form HCD–OL 90A, "Application For 90–Day Certificate Change, Correction or Replacement," dated 4/91, as set forth in Section 5038. This form is provided by the department.

(d) Every 90–day certificate holder shall notify the department within ten days of a change of employment. Notification shall be provided on Form HCD–OL 90, "Application for Manufactured Home/Mobilehome/ Commercial Coach 90–Day Certificate," dated 4/91, as set forth in Section 5020(h)(2). This form is provided by the department. The fee specified in 5040(d)(3) shall accompany the form.

After department acceptance of the application required in this subsection and the fee specified in Section 5040(d)(3), the department will issue a corrected 90–day certificate to the 90–day certificate holder.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18050, 18052.6 and 18060, Health and Safety Code.

HISTORY

1. Amendment filed 2–1–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 5).
2. New subsections (c) and (d) and amendment of subsection (b) and NOTE filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

§ 5027. Change of Residence.

(a) Every licensee or holder of a transportation decal shall notify the department in writing within 5 days of any change in residence address along with the change of residence fee specified in Section 5040.

(b) Every 90–day certificate holder shall notify the department within 5 days of any change in residence address using form HCD–OL 90A, "Application for 90–Day Certificate Change, Correction or Replacement," dated 4/91, as set forth in Section 5038. The fee specified in Section 5040(e)(3) shall accompany the form. This form is provided by the department.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18050, 18052.6 and 18063, Health and Safety Code.

HISTORY

1. Certificate of Compliance as to 3–1–82 emergency order amending former section 5027 filed 7–23–82 (Register 82, No. 31). See section 5040.
2. Certificate of Compliance including amendment transmitted to OAL 11–3–82 and filed 12–15–82 (Register 82, No. 51).
3. Amendment filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

§ 5028. Change of Personal Name.

(a) Every licensee or holder of a transportation decal shall notify the department in writing within 10 days of any change in his or her personal name along with the change in personal name fee specified in Section 5040.

(b) Every 90–day certificate holder shall notify the department within 10 days of any change in his or her personal name using form HCD–OL 90A, "Application For 90–Day Certificate Change, Correction or Replacement" dated 4/91, as set forth in Section 5038. This form is provided by the department.

Upon department receipt of the completed application form HCD–OL 90A and receipt of the fee required by Section 5040(e)(2), the department shall issue a corrected 90–day certificate to the 90–day certificate holder.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18050, 18052.6 and 18054(e), Health and Safety Code.

HISTORY

1. Amendment filed 11–25–91; operative 12–26–91 (Register 92, No. 12).
2. Change without regulatory effect amending NOTE filed 9–15–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 37).

§ 5029. Change of Franchise or Authorization.

Every manufacturer, distributor or dealer shall notify the department in writing within 10 days of the effective date of any change, addition or cancellation of any franchise, contractual agreement or authorization to sell manufactured homes, mobilehomes, or commercial coaches.

NOTE: Authority cited: Section 18045.6, Health and Safety Code. Reference: Section 18045.6, Health and Safety Code.

§ 5030. Renewal of Licenses.

(a) It is the responsibility of each licensee to renew its license pursuant to the requirements of law and this chapter.

(b) Licensees who fail to make application for renewal for a license when required shall, in addition to the fees required pursuant to Section 5040, pay a penalty of 50 percent of the relevant license fee.

(c) Failure to renew a license before its expiration date results in automatic cancellation of the license. Any person whose license has expired cannot renew it and may receive a new one only by applying for a new license pursuant to the requirements of law and this chapter and paying the penalty prescribed in subdivision (b).

(d) Any check received for renewal that is subsequently dishonored and not reimbursed before the expiration date will result in the cancellation of the applicant's license.

(e) The following language shall become effective on January 1, 1984. Every occupational license issued to a manufacturer, distributor or dealer shall expire on the last day of the 24th month following the date of issuance of the temporary permit issued pursuant to Section 5023. Every occupational license renewed by a manufacturer, distributor or dealer shall be for a term of 24 months. The application to renew an occupational license held by a manufacturer, distributor or dealer must be either received by the department or postmarked during the month preceding the month of expiration. Applications postmarked or delivered in person to the department during the month of expiration shall be subject to a 50 percent penalty. A license may not be renewed after its expiration date.

(f) Salespersons' licenses expire on the last day of the 24th month following the date of issuance of the temporary permit pursuant to Section 5023. Renewal of a salesperson's license shall be for a 24–month term. Renewal may not be made more than 90 days prior to the expiration date. A 50% penalty fee shall be added if the renewal application and fee are not postmarked or received by the department 30 days prior to expiration.

(g) Licensees applying for a secondary place of business(es) license will be issued licenses for a term concurrent with the existing licensure term. Fees will be based on the applicable original application fee specified in Section 5040, but shall be prorated consistent with the remaining license term.

(h) Each licensee, when applying for renewal of a license, shall present documentation necessary to determine the licensee's eligibility to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Sections 18054, 18054.7 and 18055, Health and Safety Code.

HISTORY

1. Amendment filed 2–1–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 5).
2. Amendment filed 5–8–86 as an emergency; effective upon filing (Register 86, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–5–86.
3. Reinstatement of section as it existed prior to emergency amendment filed 5–8–86 by operation of Government Code section 11346.1(f) (Register 86, No. 50).
4. Change without regulatory effect amending subsection (f) and NOTE filed 9–15–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 37).
5. Amendment of section heading, section and NOTE filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
6. Amendment of section heading, section and NOTE refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.

7. Certificate of Compliance as to 8–4–98 order, including amendment of subsection (h), transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 5032. Change of Supervising Managing Employee.

Every dealer shall notify the department within 5 days of a change in the designated supervising managing employee. Notification shall be provided on form HCD–OL 90, "Application For Manufactured Home/Mobilehome/Commercial Coach 90–Day Certificate," dated 4/91, as set forth in Section 5020(h)(2). The fee specified in Section 5040 (e)(8) shall accompany the form. This form is provided by the department.

NOTE: Authority cited: Sections 18015 and 18052.6, Health and Safety Code. Reference: Sections 18052.6 and 18052.7.

HISTORY

1. New section filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

§ 5034. Change of Employment Location.

(a) Every dealer shall notify the department within 15 days of any change in the employment location of any 90–day certificate holder in the dealer's employ by using form HCD–OL 90A, "Application For 90–Day Certificate Change Correction or Replacement," dated 4/91, as set forth in Section 5038. The fee specified in Section 5040(e)(9) shall accompany the form. This form is provided by the department.

(b) If the change in employment location also changes the person designated as the "Supervising Managing Employee," the dealer shall also comply with the notification requirements of Section 5032.

After department receipt of the completed application form(s) and receipt of the required fee(s), the department will issue a corrected 90–day certificate to the 90–day certificate holder.

NOTE: Authority cited: Sections 18015 and 18052.6, Health and Safety Code. Reference: Section 18052.6, Health and Safety Code.

HISTORY

1. New section filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

§ 5036. Replacement 90–Day Certificate.

A 90–day certificate holder shall request from the department, within 5 days of the loss or destruction of a certificate, the replacement of a lost or destroyed certificate by using form HCD–OL 90A "Application for 90–Day Certificate Change, Correction or Replacement," dated 4/91, as set forth in Section 5038. The form is provided by the department. Upon department receipt of the completed application form HCD–OL 90A and the fee required by Section 5040(e)(1), the department will issue a replacement 90–day certificate to the 90–day certificate holder. The department shall not be required to issue a replacement 90–day certificate if the 90–day certificate period has lapsed.

NOTE: Authority cited: Sections 18015 and 18052.6, Health and Safety Code. Reference: Section 18052.6, Health and Safety Code.

HISTORY

1. New section filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

§ 5038. Application Requirements For 90–Day Certificate Change, Correction Or Replacement.

(a) Application for change, correction, or replacement of a 90–day certificate shall be made using form HCD–OL 90A, "Application for 90–Day Certificate Change, Correction or Replacement," dated 4/91, as set forth in subsection (b). This form is provided by the department.

(b) Form HCD–OL 90A, "Application for 90–Day Certificate Change, Correction or Replacement," dated 4/91:

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS

OCCUPATIONAL LICENSING PROGRAM
(916) 323-9803

APPLICATION FOR 90-DAY CERTIFICATE
CHANGE, CORRECTION OR REPLACEMENT

DEPARTMENT USE ONLY

Date of Collection: _____

Collection No.: _____

Fee Collected: _____

SECTION 1 - PURPOSE OF APPLICATION

CHECK THE APPROPRIATE BOX(ES) TO INDICATE THE PURPOSE OF THE APPLICATION SUBMITTAL, AND FOLLOW THE INSTRUCTIONS PROVIDED.

(a) ☐ CHANGE OF RESIDENCE (**Certificate Holder:** Complete Sections 1, 2 and 7, return old 90-DAY CERTIFICATE to the Department with this application)

(b) ☐ TERMINATION (**Dealer:** Complete Section 1 and 3)

(c) ☐ PERSONAL NAME CHANGE (**Certificate Holder:** Complete Sections 1, 4 and 7 return old 90-DAY CERTIFICATE to the Department with this application)

(d) ☐ EMPLOYMENT LOCATION CHANGE (Same Employing Dealer)(**Dealer:** Complete Sections 1, 5, return old 90-DAY CERTIFICATE to the Department)

(e) ☐ OBTAIN REPLACEMENT 90-DAY CERTIFICATE (**Certificate Holder:** Complete Sections 1, 6 and 7, return old 90-DAY CERTIFICATE, if available to the Department with this application)

NOTE: COMPLETE SECTION 8 IF THE OLD 90-DAY CERTIFICATE IS NOT RETURNED WHEN REQUIRED.

This application shall be accompanied by the fee in accordance with the California Code of Regulations, Title 25, Chapter 4, Section 5040 for items (a) through (e) above as follows:

(a) Change of Residence - $15.00
(b) Termination - No fee required
(c) Personal Name Change -$15.00
(d) Employment Location Change - $15.00
(e) Replacement 90-Day Certificate - $25.00

CERTIFICATE HOLDER NAME _____ 90-DAY CERTIFICATE NO. _____
Last First Middle

SECTION 2 - RESIDENCE ADDRESS CHANGE

TELEPHONE (_____) _____

NEW RESIDENCE ADDRESS _____
Number and Street City State Zip Code

MAILING ADDRESS (If different) _____
P.O. Box or Number and Street City State Zip Code

EFFECTIVE DATE _____

SECTION 3 - TERMINATION

EFFECTIVE DATE _____

DEALERSHIP NAME _____ DEALER LICENSE NO. _____

DEALER REPRESENTATIVE _____
Sign Type or Print Name Title

SECTION 4 - PERSONAL NAME CHANGE

NEW NAME _____ EFFECTIVE DATE _____
Last First Middle

SECTION 5 - CERTIFICATE HOLDER CHANGE OF EMPLOYMENT LOCATION (Same employing dealer)

DEALERSHIP NAME _____ DEALER LICENSE NO. _____

NEW LOCATION OF EMPLOYMENT _____ EFFECTIVE DATE _____
Number and Street City State Zip Code

FORMER LOCATION OF EMPLOYMENT _____
Number and Street City State Zip Code

SEE PAGE 2 - REVERSE SIDE

[The next page is 247.]

SECTION 6 - REPLACEMENT 90-DAY CERTIFICATE

CERTIFICATE HOLDER NAME _____ 90-DAY CERTIFICATE NO. _____
Last First Middle

ADDRESS _____
Number and Street City State Zip Code

MAILING ADDRESS (If different) _____
P.O. Box or Number and Street City State Zip Code

REPLACEMENT IS DUE TO: ☐ LOSS ☐ MUTILATION ☐ ERROR ☐ OTHER _____

Briefly explain circumstances: _____

SECTION 7 - CERTIFICATE HOLDER CERTIFICATION

I, _____, certify under penalty of perjury that the information
Type or Print Name
contained herein is true and correct to the best of my belief.

SIGNATURE _____ DATE _____

SECTION 8 - STATEMENT OF FACTS

I, _____ , the undersigned, hereby declare that I am unable to surrender
Type or Print Name
the 90-DAY CERTIFICATE required to be returned with this Application for 90-Day Certificate Change, Correction, or Replacement because:

I acknowledge that said 90-day certificate remains the property of the Department of Housing and Community Development. Should this 90-day certificate be located or come into my possession at a later date, I will surrender it to the nearest Housing and Community Development Office.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON _____ IN THE COUNTY OF _____ STATE OF _____
Date

SIGNATURE _____

SUBMIT TO:

Department of Housing and Community Development
Occupational Licensing Program
P.O. Box 31
Sacramento, CA 95812-0031

NOTE: Authority cited: Sections 18015 and 18052.6, Health and Safety Code. Reference: Section 18052.6, Health and Safety Code.

HISTORY

1. New section filed 11-25-91; operative 12-26-91. (Register 92, No. 12).

§ 5040. Fees.

(a) Manufacturer and Distributor.

(1) Original License Application: Five hundred eighty-two dollars ($582) per year for each established place of business.

(2) Renewal of License: Five hundred dollars ($500) per year for each established place of business.

(b) Dealers.

(1) Original License Application: Five hundred eighty-two dollars ($582) per year for each established place of business.

(2) Renewal of License: Four hundred five dollars ($405) per year for each established place of business.

(c) Salesperson and 90-Day Certificate Holder.

(1) Original Salesperson License Application: Two hundred nineteen dollars ($219).

(2) Renewal of Salesperson License: One hundred fifty dollars ($150).

(3) Change of Salesperson or 90-Day Certificate Holder Employment Fee: Forty-five dollars ($45).

(4) Original 90-Day Certificate Application: One hundred thirty-four dollars ($134).

(d) Duplicate Licenses, 90-Day Certificates, and Reports of Change for All Licensees and 90-Day Certificate Holders.

(1) Duplicate License or 90-Day Certificate: Forty-five dollars ($45).

(2) Change in Business or Personal Name: Forty-five dollars ($45).

(3) Change in Business Mailing or Personal Address: Forty-five dollars ($45).

(4) Elimination of Partner or Corporate Officer: Seventy-two dollars ($72).

(5) Addition of Partner(s) or Corporate Officer(s): One hundred thirty dollars ($130).

(6) Relocation of Business: Three hundred fifty-eight dollars ($358).

(7) Change of Ownership Structure by Incorporation: Seventy-two dollars ($72).

(8) Change of Supervising Managing Employee: Forty-five dollars ($45).

(9) Change of Employment Location for 90-Day Certificate Holders: Forty-five dollars ($45).

(e) Examinations.

(1) Dealer Examination: One hundred ten dollars ($110) for each examination taken.

(2) Salesperson Examination: Eighty-six dollars ($86) for each examination taken.

(f) Investigative and Technical Services.

(1) One hundred ninety-six dollars ($196) provided the investigative or technical service does not exceed one hour. When the investigative or technical service exceeds one hour, the following fees shall apply:

(A) Second and subsequent whole hours: eighty-two dollars ($82).

(B) Each thirty (30) minutes, or fractional part thereof: forty-one dollars ($41).

(g) Information, Photocopying, Certification, Forms and Photos.

(1) Search for Information: Forty-five dollars ($45) per subject, whether information is found or not.

(2) Summary of Employment: Fifty-three dollars ($53) per licensee.

(3) Photocopies of Documents: Five dollars ($5.00) per page.

(4) Certified Copies of Documents: Twenty-five dollars ($25) per document.

(5) Certification of Information on File: Forty-five dollars ($45).

(6) Full facial photograph fee: One dollar and fifty cents ($1.50) per photo.

(7) Examination Study Guide: Twenty-nine dollars ($29).

(h) Statewide Licensee Lists.

(1) Manufacturers: Fifty-five dollars ($55).

(2) Dealers: Fifty-five dollars ($55).

(3) Distributors: Fifty-five dollars ($55).

(4) Salespersons: Sixty dollars ($60).

(i) Dealer Report of Sale Filing Fee: Twenty-five dollars ($25) for each report of sale filed with the department.

NOTE: Authority cited: Sections 18015, 18031 and 18052.6, Health and Safety Code. Reference: Sections 18031, 18045.6, 18050, 18052.6, 18053.5 and 18055, Health and Safety Code.

HISTORY

1. Repealer of former Section 5027 and adoption as new Section 5040 filed 7-7-82 (See History for Chapter 4 under Section 5000) (Register 82, No. 28). Certificate of Compliance as to 3-1-82 emergency order amending former Section 5027 filed 7-23-82 (Register 82, No. 31).
2. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
3. Amendment filed 2-1-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).
4. Amendment filed 11-29-89; operative 11-29-89 (Register 89, No. 49).
5. Amendment of subsections (d)-(e)(1), adoption of subsections (e)(8) and (e)(9), repealer of subsection (j) and subsection renumbering and amendment, and amendment of NOTE filed 11-25-91; operative 12-26-91. (Register 92, No. 12).
6. Amendment filed 12-29-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 5041. Refunds.

Fees paid to the department pursuant to this chapter are not refundable, except in a case where the department has not already incurred expense, and a request is submitted in writing explaining circumstances for the refund justifying special consideration.

NOTE: Authority cited: Sections 18015 and 18031, Health and Safety Code. Reference: Section 18055, Health and Safety Code.

§ 5042. Insufficient Checks.

Where any check offered in payment for fees or charges pursuant to this chapter is returned without payment for any reason, a charge of ten dollars ($10.00) shall be imposed and shall become a part of the total obligation in addition to other consequences permitted by law and this chapter.

NOTE: Authority cited: Section 18015, Health and Safety Code and Section 6157, Government Code. Reference: Section 18060, Health and Safety Code.

§ 5043. Dealer Report of Sale Filing Fee.

A Report of Sale Filing Fee specified by Section 5040 shall be paid to the Department with each dealer's Report Sale filed pursuant to Health and Safety Code Section 18080.5.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18031, Health and Safety Code.

HISTORY

1. New section filed 2-1-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

Article 5. Advertising Listing Agreements and Sales Practices

§ 5050. General Advertising.

(a) Any advertised statements, representations, or offers made in connection with the sale, attempted sale, listing for sale, or attempted listing for sale of any manufactured home, mobilehome or commercial coach shall be clear, based on facts, and subject to the requirements of law and this chapter.

(b) Any advertisement by a dealer of a specific manufactured home, mobilehome or commercial coach shall include the dealer's name, its manufacturer or model name, year model and at least one of the following items:

(1) The serial number assigned by its manufacturer, or

(2) The federal label number, or

(3) The Department insignia number.

Year models are no longer current when ensuing year models are advertised or made available for purchase at retail by the manufacturers.

(c) If a license advertises any manufactured home, mobilehome or commercial coach used in its business as a lot model, display unit or office, the licensee shall clearly disclose the previous use made thereof.

(d) A licensee shall advertise any manufactured home, mobilehome or commercial coach which has been previously sold at retail, registered or otherwise required to be registered expressly as a used manufactured home, mobilehome or commercial coach.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18061, 18062 and 18062.2, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 81, No. 51).
2. Amendment filed 2-6-98; operative 3-8-98 (Register 98, No. 6).

§ 5051. Manufactured Home, Mobilehome or Commercial Coach Condition and Physical Size.

(a) Statements of the condition of a manufactured home, mobilehome or commercial coach must accurately reflect its known condition, and pictures thereof must accurately depict its overall appearance.

(b) When advertising the size of a manufactured home, mobilehome or commercial coach, the size shall not include measurements of projections beyond the exterior wall such as roof overhangs, hitches, drawbars, couplings, bay windows or similar projections.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18061, Health and Safety Code.

§ 5052. Manufactured Home, Mobilehome or Commercial Coach Availability.

(a) No dealer shall advertise a specific new manufactured home, mobilehome or commercial coach or a class thereof for sale, unless it is in the dealer's possession, or is available to the dealer directly from the manufacturer or distributor thereof under an enforceable contractual right of delivery or retail authorization on file with the department between the advertising dealer and the manufacturer or distributor.

(b) A dealer must sell advertised manufactured homes, mobilehomes or commercial coaches at or below the advertised price irrespective of whether or not the advertised price has been communicated to the purchaser.

(c) Dealers displaying models which contain features, items or materials no longer available from the manufacturer, shall disclose such facts to prospective purchasers of homes whose order is based upon the display model.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18061 and 18062.2, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Amendment of subsection (b) filed 2-6-98; operative 3-8-98 (Register 98, No. 6).

§ 5053. Free Merchandise, Savings Claims and Rebates.

(a) No licensee shall advertise or represent any merchandise, services, accessories or products as "free" with the purchase of a manufactured home, mobilehome or commercial coach if the manufactured home, mobilehome or commercial coach can be purchased from the advertiser at a lesser price without such "free" merchandise, services, accessories or products. Advertisements for "free" merchandise, services, accessories or products offered in consideration of such things as "visit our showroom" shall clearly and completely describe the conditions under which the "free" merchandise is offered.

(b) Dealers may advertise savings claims or discount offers on new manufactured homes, mobilehomes or commercial coaches provided the advertisement shows the difference between the dealer's advertised selling price for cash and the manufacturer's suggested retail price, except sales tax, registration fees, and finance charges. Such advertisements must include a specific reference by words, figures, or both, to the manufacturer's suggested retail price.

(c) Any advertisements with reference to "rebates" on manufactured homes, mobilehomes or commercial coaches shall clearly state the amount and source of the rebate. No dealer shall advertise or offer a rebate with the purchase of a manufactured home, mobilehome or commercial coach if the advertised manufactured home, mobilehome or commercial coach can normally be purchased from the advertiser at a lesser price without such rebated.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18061, 18062 and 18062.2, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (register 82, No. 51).
2. Amendment of subsection (a), repealer of subsection (b) and subsection relettering filed 2-6-98; operative 3-8-98 (Register 98, No. 6).

§ 5054. Dealer Added Charges.

A dealer may not identify a separate charge or charges for services performed on a manufactured home, mobilehome or commercial coach prior to delivery to the extent the dealer is or will be reimbursed for such expenditures by another party.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18061, 18062 and 18062.2, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).

§ 5055. Financing.

(a) Credit terms advertised shall include all charges required to place the transaction on a time payment basis and must state any rates in compliance with Regulation Z. Advertisements of terms which include escalated payments, balloon payments, or pick-up payments shall clearly identify those payments as to their amounts and times due and must state any rates in compliance with Regulation Z.

(b) Licensees shall not advertise statements such as "no finance charge" unless there is no charge or time-price differential whatsoever for placing the transaction on a time payment basis.

(c) Licensees shall not make claims such as "everybody financed," "no credit rejected," or words of a similar nature unless the licensee is willing to extend such credit to each and every individual under any and all circumstances.

(d) If qualifying words such as "on credit approval," are used in conjunction with advertised credit terms, licensees shall clearly state such qualifying words, unabbreviated, in type size no less than 1/2 of the type size of the credit terms, and in close proximity thereto.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18036.5, 18061 and 18062, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).

§ 5056. Down Payment and Deposit.

(a) A licensee shall not advertise the amount of down payment and/or deposit required to purchase a manufactured home, mobilehome or commercial coach unless it is clearly identified as being a down payment or deposit in type size not less than 1/2 the type size in which the amount of the down payment or deposit is stated.

(b) A licensee shall not advertise the statements "no down payment," "no deposit" or similar terms unless the dealer will sell and deliver the advertised manufactured home, mobilehome or commercial coach to any purchaser without prior payment of any kind or trade-in.

(c) If an advertisement quotes the amount of a periodic payment, the advertisement shall also quote the amount of the down payment or deposit required to qualify for the amount of the quoted periodic payment.

(d) A licensee shall not advertise the amount of a down payment or deposit unless it represents the total payment, including any payment for sales tax, permits, titling or registration, to be required of the purchaser prior to delivery of the manufactured home, mobilehome or commercial coach.

NOTE: Authority cited: Section 18015, Health and Safety Code: Reference: Sections 18061 and 18062.2, Health and Safety Code.

History

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and files 12-15-82 (Register 82, No. 51).

§ 5057. Representations.

A dealer or salesperson shall not do any of the following:

(a) Knowingly make a material misrepresentation to the owner or seller of a manufactured home, mobilehome or commercial coach of its likely market value, either for the purpose of securing a listing or for the purpose of acquiring an interest in the manufactured home, mobilehome or commercial coach for the licensee's own account.

(b) State or imply to an owner or seller of a manufactured home, mobilehome or commercial coach during listing negotiations that the licensee is precluded by law, regulation or by the rules of any group or organization of licensees, from charging less than the commission or fee quoted to the owner by the licensee.

(c) Fail in a transaction for the sale, lease or exchange of a manufactured home, mobilehome or commercial coach to disclose to a prospective purchaser or lessee facts known to the licensee materially affecting the value or desirability of the manufactured home, mobilehome or commercial coach, when the licensee has reason to believe that such facts are not known to, nor readily observable by a prospective purchaser or lessee.

(d) When seeking a listing, represent to an owner or seller of the manufactured home, a mobilehome or commercial coach that the soliciting licensee has obtained a bona fide written offer to purchase the manufactured home, mobilehome or commercial coach, unless at the time of representation the licensee has possession of a bona fide written offer to purchase.

(e) Fail to present or cause to be presented to the registered owner or seller of the manufactured home, mobilehome or commercial coach any offer to purchase or lease received prior to the preparation of the purchase documents or rental agreement.

(f) Present competing offers to the seller to purchase the manufactured home, mobilehome or commercial coach in such a manner as to induce the owner or seller to accept the offer which will provide the greatest compensation to the dealer, without regard to the benefits, advantages, and/or disadvantages to the owner or seller.

(g) Knowingly underestimate the probable closing costs in a transaction in a communication to the prospective purchaser or seller of a manufactured home, mobilehome or commercial coach in order to induce that person to make or to accept an offer to purchase the manufactured home, mobilehome or commercial coach.

(h) Fail to explain to the parties or prospective parties to a transaction the meaning and probable significance of a contingency in an offer or contract that the licensee knows or reasonably believes may affect the closing date of the transaction, or the timing of the vacating of the manufactured home, mobilehome or commercial coach by the seller or its occupancy by the purchaser.

(i) Knowingly make a false or misleading representation to the seller or purchaser of a manufactured home, mobilehome or commercial coach as to the form, amount and/or treatment of a deposit toward purchase.

(j) Refund all or part of an offeror's purchase money deposit in a manufactured home, mobilehome or commercial coach sales transaction after the registered owner has accepted the offer to purchase, unless the licensee has the express permission of the registered owner to make the refund.

(k) Fail to disclose the registered owner of a manufactured home, mobilehome or commercial coach the nature and extent of any direct or indirect ownership interest or security interest that the licensee expects to acquire as a result of the sale. The prospective purchase of the manufactured home, mobilehome or commercial coach by a person related to the licensee by blood or marriage, by an entity in which the licensee has an ownership interest, or by any other person with whom the licensee occupies a special relationship shall be disclosed.

(l) Represent, without a reasonable basis, the nature and/or condition of the interior or exterior features or accessories of a manufactured home, mobilehome or commercial coach when soliciting an offer.

(m) Represent, without a reasonable basis, in the case of the manufactured home or mobilehome located in a mobilehome park, any characteristics of the mobilehome park or its operation, when soliciting an offer.

(n) Fail to respond to reasonable inquiries of a seller as to the status or extent of efforts to market the manufactured home, mobilehome or commercial coach listed exclusively with the licensee.

(o) Fail to disclose to a potential purchaser when discussing the purchase of a manufactured home, mobilehome or commercial coach, the existence of any direct or indirect ownership interest or security interest of the licensee in the manufactured home, mobilehome or commercial coach.

(p) Fail to disclose to a prospective purchaser of a used mobilehome that it may become subject to the age limitations as specified in Section 798.73 of the Civil Code within 3 years from the date of sale to the prospective purchaser.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18061, 18062 and 18062.2, Health and Safety Code; Section 798.73, Civil Code.

History

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 filed 12-15-82 (Register 82, No. 51).
2. Amendment of subsections (k) and (o) filed 2-1-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

Article 6. Purchase Documents and Escrow

§ 5060. Escrow Required.

(a) Concurrent with a dealer's receipt of any cash or cash equivalent from a purchaser at any time prior to delivery of a new or used manufactured home or mobilehome subject to registration, the dealer shall execute a mutually-endorsed receipt for deposit and purchase document. Within three working days thereafter, the dealer must establish with an escrow agent an escrow account into which all cash or cash equivalents shall be deposited. The escrow shall not be established with an escrow agent or agency in which the dealer has more than 5 percent ownership interest.

(b) Upon the purchaser's signing of the receipt for deposit and purchase document, the dealer shall provide the purchaser with a copy of each document, which must be mutually-endorsed.

(c) Upon establishment of the escrow account, the dealer shall provide the escrow agent, in writing, with the information required for the preparation of escrow instructions.

(d) These regulations do not imply, nor shall they be interpreted to require, that a recorded certificate of title or junior lienholder registration card(s) be delivered to the purchaser through escrow as a condition of escrow. These regulations shall, however, provide that a release of any prior rights, title, or interest in a manufactured home or mobilehome being purchased or traded in as payment toward the manufactured home or mobilehome being purchased, held by the registered owner(s), legal owner, flooring lender shown on or in possession of a manufacturer's certificate of origin and junior lienholder(s) be obtained as a condition of escrow. In the event that the dealer owns the manufactured home or mobilehome and it has no liens, the dealer shall deliver into escrow either the certificate(s) of title or the manufacturer's certificate of origin, whichever is available.

(e) If the sale is subject to Section 18035.26 of the Health and Safety Code, the escrow agent must be in receipt of the signed Declaration of Delivery Sale document prior to preparing escrow instructions. The date the Declaration was received by the escrow agent shall precede the date of preparation of escrow instructions.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18035, 18035.1 and 18035.26, Health and Safety Code.

History

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 filed 12-15-82 (Register 82, No. 51).
2. Amendment of subsection (d) filed 2-1-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).
3. Change without regulatory effect adding subsection (e) and amending NOTE filed 7-6-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 27).

§ 5061. Escrow Instructions.

From the information provided by the dealer, the escrow agent shall prepare escrow instructions and any amendments thereto for signing by both the dealer and purchaser. These escrow instructions may be signed in counterpart. Both the dealer and the purchaser shall receive copies of the signed escrow instructions and any mutually agreed amendments, with the originals or executed copies maintained by the escrow agent. The escrow instructions shall contain, but are not limited to, the following:

(a) The names and addresses of both the dealer and the purchaser;

(b) The names and addresses of the registered owner(s), legal owner of, flooring lender, and any junior lienholder(s), of the manufactured home or mobilehome.

(c) The name, address and telephone number of the escrow agent;

(d) A description of the manufactured home or mobilehome sold to the purchaser by the dealer which shall include, but not be limited to: the manufacturer name; model name, if available; size (excluding any hitch or towbar); model year, and a statement that prior to the close of escrow, the dealer shall provide the serial numbers of the manufactured home or mobilehome and the control number(s) of either the California Department of Housing and Community Development insignia(s) or the federal label(s) affixed to the manufactured home or mobilehome, which indicate compliance with applicable standards, in order to complete the description of the manufactured home or mobilehome.

(e) Identification of the amounts paid or to be paid as a deposit, downpayment and/or balance due prior to closing, total price of the manufactured home or mobilehome and all accessories or services to be provided by the dealer as part of the sale, and any taxes, service fees, charges or other fees. The amounts disclosed by the dealer shall be consistent with the amounts set forth in the purchase document and receipt for deposit.

(f) A general description of and designation of the cash value of each accessory and any installation thereof included in the purchase.

NOTE: This requirement does not apply when the accessories have been installed prior to the preparation of purchase documents.

(g) The specific address or location where the purchaser will accept delivery of the manufactured home or mobilehome or any accessory thereto included in the purchase price. If the sale is subject to Section 18035.26 of the Health and Safety Code, the delivery address in the escrow instructions shall be the same as the delivery address or location in the Declaration of Delivery Sale document and the purchase agreement.

(h) A statement of the conditions under which the purchaser will receive delivery of the manufactured home or mobilehome and any accessory thereto.

(i) A statement that prior to the close of escrow, the dealer shall secure and deliver into escrow signed and acknowledged release(s) of any rights, title or interest in the manufactured home or mobilehome being purchased, executed by the registered owner(s), legal owner, flooring lender and any junior lienholder(s). Any such release shall be conditioned upon the receipt of disbursement by the party executing the release directly from the escrow account of the amount set forth in such release. If the purchaser(s) is/are assuming an indebtedness as evidenced by an existing lien, the dealer shall deliver into escrow documents executed by the legal owner and/or junior lienholder(s) consenting to the assumption by the buyer.

(j) A statement that prior to the close of escrow, the dealer shall secure and deliver into escrow a signed and acknowledged release of any rights, title or interest in the manufactured home, mobilehome or personal real property being sold or traded in as payment toward the manufactured home or mobilehome being purchased, from the registered owner(s), legal owner and any junior lienholder(s). Any such release shall be conditioned upon the receipt of disbursement directly from the escrow account of the amount set forth in such release. If the dealer is assuming an existing lien, he or she shall deliver into escrow documents executed by the legal owner and/or junior lienholder(s) consenting to the assumption by the dealer.

(k) A statement that prior to the close of escrow, when the manufactured home or mobilehome is located in a mobilehome park at the time of sale and is to remain in the park, a statement signed by the purchaser shall be delivered into escrow, indicating that the purchaser has read the rules and regulations of the park, and entered into the park's rental agreement. A copy of a fully executed rental agreement signed by the purchaser may be substituted for the purchaser's agreement.

(l) When the manufactured home or mobilehome being either purchased or traded in as payment toward the manufactured home or mobilehome being purchased is subject to local property taxation, the escrow instructions may provide for the proration of said taxes.

(m) Any documentation required for disbursement pursuant to Section 5062.

(n) In the event a purchaser intends to arrange for third party financing without the assistance of the dealer, a statement that escrow shall terminate 30 days from the date escrow was opened, and that all cash or cash equivalent, less escrow fees, will be returned to the purchaser, unless the purchaser delivers into escrow written confirmation from a lender that financing has been approved.

(o) In the event of a conditional purchase document, a statement that if the contract is not executed by the date escrow is to close, escrow shall terminate and all cash or cash equivalent paid to the dealer be returned to the purchaser.

(p) The date agreed upon, in writing, by the purchaser and dealer that escrow is to close.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18035, 18035.1, 18035.26, 18035.5 and 18036, Health and Safety Code.

History

1. Certificate of Compliance, including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Amendment of subsections (d), (i), (n) filed 2-1-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).
3. Change without regulatory effect amending subsection (g) and NOTE filed 7-6-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 27).

§ 5062. Disbursement of Escrow Funds.

In addition to the requirements of Sections 18035, 18035.2 and 18035.26 of the Health and Safety Code, the escrow agent shall disburse the amounts specified for the manufactured home or mobilehome and accessories only as follows:

(a) When the mobilehome is to be delivered to the site described in the escrow instructions, to be installed, and pass inspection pursuant to Sections 18613 and 18551(b) of the Health and Safety Code, the escrow instructions shall so state and shall require the dealer to deliver into escrow the following documentation to evidence delivery:

(1) A copy of either the statement of installation or the certificate of occupancy issued by the public agency performing the installation inspection; and

(2) A statement signed by the dealer indicating that the manufactured home or mobilehome has been delivered to the purchaser or that delivery has been offered to the purchaser in accordance with the agreement of the principals and that the purchaser is free to occupy the manufactured home or mobilehome to the exclusion of the dealer.

(b) When the manufactured home or mobilehome is to be delivered to the purchaser at a location specified in the escrow instructions and the purchaser will, at his or her own convenience either actually and physically perform the installation of the manufactured home or mobilehome and accessories, or be responsible for such installation, the escrow instructions shall so state and shall contain a statement indicating that either the purchaser has agreed to actually and physically perform the installation of the manufactured home or mobilehome and accessories or has

agreed to be responsible for such installation and understands that escrow may close and funds be disbursed upon delivery of the manufactured home or mobilehome to the purchaser at the location specified in the escrow instructions. In addition, if applicable, the escrow instructions shall include a copy of the Declaration of Delivery Sale required by Section 18035.26 of the Health and Safety Code. The documentation required to evidence such delivery shall be a statement signed by both the dealer and the purchaser indicating that the manufactured home or mobilehome has been delivered to the purchaser at the location specified in the escrow instructions.

(c) When the manufactured home or mobilehome is already installed pursuant to Sections 18613 or 18551(b) of the Health and Safety Code, prior to the execution of the purchase agreement, the escrow instructions shall so state and shall require the following documentation to be delivered into escrow to evidence delivery: a statement signed by both the dealer and the purchaser indicating that delivery has been received or that delivery has been offered to the purchaser in accordance with the agreement of the principals and that the purchaser is free to occupy the manufactured home or mobilehome to the exclusion of the dealer.

(d) The escrow agent can disburse the amount specified for each accessory specified in Section 5061(g) of this article only upon receipt of written notice signed by the dealer that the accessory has been actually installed or received by the purchaser in the event that installation is not required under the terms of the purchase document.

(e) The escrow agent can disburse the cash or cash equivalent in escrow to the purchaser in the event that the purchaser was unable to obtain third party financing within 30 days of the escrow opening or the conditional purchase document was not executed by the date escrow was to have been closed, as specified in Sections 5061(n) and (o), respectively.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18035, 18035.2, 18035.26, 18035.5 and 18036, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Change without regulatory effect amending first paragraph, subsections (a), (b) and (c) and NOTE filed 7-6-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 27).

§ 5063. Waivers.

No agreement shall contain any provision by which the purchaser waives any rights to which the purchaser would be otherwise entitled under this article or any other provision of Health and Safety Code, Division 13, Part 2, Chapter 5. Waivers cannot result from practices which include, but are not limited to, separate contracts with the selling dealer for installation of the manufactured home or mobilehome, separate contracts with the selling dealer for accessories to the manufactured home or mobilehome, substitution by the dealer of the cash and/or equivalents received as whole or partial payment for the manufactured home or mobilehome or accessory thereto, agreements that liquidated damages be taken out of escrow, and granting of power of attorney, attorney in fact, or agency by the purchaser to the dealer for any purpose other than registration. Such waivers shall be void and unenforceable.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18035, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 filed 12-15-82 (Register 82, No. 51).

§ 5064. Records Required.

Escrow agents shall maintain records of their handlings of escrows which shall be subject to audit by authorized representatives of the department or any other appropriate regulatory agency. Such records shall include a copy of the escrow instructions, and the dates and disbursements of cash and/or cash equivalents. Each escrow transaction processed by the escrow agent shall be assigned an escrow number by the escrow agent and this number shall be displayed on all documents relating to that escrow.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18035, 18035.1, 18035.2 and 18035.26, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Change without regulatory effect amending NOTE filed 7-6-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 27).

Article 7. Public Access to Information Regarding Occupational Licensing

§ 5070. Policy Regarding Disclosure.

(a) The department shall provide information regarding license status, compliance, violations substantiated by the department, and disciplinary action taken against any licensee to any person requesting such information.

(b) The department may set reasonable limits upon the number of requests for information from any person.

(c) The appropriate fee for search and any reproductive costs pursuant to Section 5040, may be charged for any request for information.

(d) The department may prepare and disclose statistical data of a summary nature that does not identify individual licensees, which the department considers such data informative to consumers.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18045 and 18050, Health and Safety Code; Sections 6253, 6254, 6256 and 6257, Government Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).

§ 5071. Disclosure of Information Regarding License Status.

(a) Upon receipt of written request, the department may disclose to any member of the public, the following license status information which is on record with the department:

(1) Licensee's name, including all fictitious or business names;

(2) License number;

(3) Business address and telephone number;

(4) Names of all principals and offices held;

(5) Date of original licensure;

(6) Date such license expires, expired, lapsed or was terminated and, if applicable, the reason for termination;

(7) If the licensee is a salesperson, the name of the employing dealer and any information about the employer as listed above.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18050, Health and Safety Code; Sections 6253, 6254, 6256 and 6257, Government Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. Amendment of subsection (a) (8) filed 2-1-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 5).
3. Change without regulatory effect repealing subsection (a)(7), subsection renumbering, and amendment of NOTE filed 9-15-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 37).

§ 5072. Disclosure of Information Regarding Instances of Noncompliance and Complaints.

(a) Upon receipt of written request, the department may disclose to any member of the public the following information with respect to the preceding three calendar years:

(1) The number and general nature of instances of noncompliance or complaints received or discovered by the department which warranted issuance of a warning letter to the licensee;

(2) The number and general nature of complaints which, upon review by the department, establish a prima facie case of an instance of noncompliance, other than warranty complaints;

(3) The number and general nature of instances of noncompliance or complaints found to warrant administrative disciplinary action against the licensee, as evidenced by the filing of an Accusation or judicial action by the department.

(b) If an instance of noncompliance or complaint which was initially determined by the department to be substantiated is later found by Ad-

ministrative Law Judge or a court of law not to constitute a violation of law, and that determination is not successfully appealed by an interested party, it shall be deleted from the complaint information.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18020, 18021.5 and 18050, Health and Safety Code; Sections 6253, 6254, 6256 and 6257, Government Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).

§ 5073. Disclosure of Information Regarding Disciplinary Actions.

The department may disclose the following disciplinary history information upon request:

(a) Whether any current licensee or principal thereof has ever been disciplined and, if so, when and for what offenses; and

(b) Whether any current licensee or principal thereof has been named in any disciplinary action and if so, the disposition of such action.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18020, 18021.5 and 18050, Health and Safety Code; Sections 6253, 6254, 6256 and 6257, Government Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).

Article 8. Enforcement, Actions and Penalties

§ 5080. Enforcement.

The department shall administer and enforce all of the provisions of this chapter. Any officer, agent, or employee of the department assigned to enforcement is authorized:

(a) To enter at reasonable times and without advance notice any premises where manufactured homes, mobilehomes or commercial coaches are manufactured, sold, or offered for sale, rent, or lease.

(b) To examine and copy any records, documentary evidence or other information necessary to carry out the requirements of law and this chapter.

(c) To require, by general or special orders or reports, any person subject to licensing or regulation to file, in such form as the department may prescribe, reports or answers in writing to specific questions relating to any occupational licensing function of the department.

(d) To take such other action permitted by law to carry out the requirements of law and this chapter.

(e) To pick up for inspection Report of Sale books.

(f) To post a Prohibited Sales Notice on a manufactured home, mobilehome or commercial coach, as provided in this chapter.

(g) To post a Notice of Suspension at a licensee's place of business as provided in this chapter.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18020, 18022, 18023 and 18045.5, Health and Safety Code.

HISTORY

1. Certificate of Compliance including amendment transmitted to OAL 11-3-82 and filed 12-15-82 (Register 82, No. 51).
2. New subsections (f) and (g) filed 2-1-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).
3. Amendment filed 5-8-86 as an emergency; effective upon filing (Register 86, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-5-86.
4. Reinstatement of section as it existed prior to emergency amendment filed 5-8-86 by operation of Government Code Section 11346.1(f) (Register 87, No. 27).

§ 5081. Complaint and Monitoring Investigation.

(a) Upon receipt of a complaint indicating the possible existence of a violation of law or this chapter, including a violation of Section 1797, *et seq.* of the Civil Code, the department may investigate the complaint and, at the time and in the manner permitted by law, notify each licensee or former licensee assumed responsible for the violations. In addition, or in the alternative, the department may investigate and take any other actions permitted by law.

(b) The recipient of such a notice shall, as soon as possible, but not later than 20 days after notification, unless otherwise specified by the department, take appropriate steps, including inspections or investigations, to determine the extent of its responsibility. Upon determining its responsibility, the recipient of such a notice shall:

(1) notify the department in writing of the action proposed to correct the violation and/or respond to the complainant, and

(2) take the action communicated to the department within 40 days of the original notification of complaint, unless otherwise specified by the department.

(c) Upon written request, the department may, at its discretion, grant an extension of time for correction of violations.

(d) The department may make an independent investigation and/or may institute appropriate legal and/or administrative action as necessary to secure compliance with law if the person notified of the complaint fails to take or complete appropriate action within the specified time, or at any other time deemed necessary and appropriate by the department.

(e) To the extent that the department deems it necessary to investigate, inspect, or reinspect to ensure compliance with law, the person responsible for taking the corrective action shall submit fees pursuant to Section 5040 within 15 days after billing by the department. The person or entity liable for such fees may appeal that determination in writing to the director of the department within 10 days after such billing. Failure to pay the fees shall be grounds for administrative action by the department.

(f) No license may be renewed if an outstanding fee has not been paid.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18020, 18021.5, 18045.5 and 18058 and 18061.5, Health and Safety Code.

§ 5082. Notices of Suspension, Revocation, or Cancellation.

(a) If a license is suspended or revoked as a result of actions taken pursuant to Health and Safety Code Sections 18021.5, 18064 or 18064.5, or conditions exist providing for the automatic cancellation of the license pursuant to Health and Safety Code Section 18065, the department may post two (2) notices of suspension, revocation or cancellation provided by the department in places conspicuous to the public at each affected place of business and any branch of the licensee during the period of suspension, revocation or cancellation.

(b) Said notices shall be 24″ wide by 14″ high and shall be in substantially the following form:

NOTICE OF SUSPENSION
THE DEALERS LICENSE ISSUED FOR THESE PREMISES
HAS BEEN SUSPENDED FROM _____ THROUGH _____
BY ORDER OF THE DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT FOR VIOLATION OF
STATE LAWS GOVERNING MANUFACTURED
HOUSING SALES

(c) Removal of this notice prior to termination of suspension or any representation to the effect that sales or purchases have been suspended for any reason other than by order of the department shall be deemed a violation of the condition of probation.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18020, 18021.5, 18058 and 18065.5, Health and Safety Code.

HISTORY

1. Amendment filed 2-1-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 5082.5. Prohibited Sale Notice.

Whenever the department discovers by investigation that manufactured homes, mobilehomes or commercial coaches are being offered for sale, rent or lease by persons or at locations, which are not licensed as required by law and this chapter, or where the license has been suspended or revoked as a result of actions taken pursuant to Health and Safety Code Sections 18021.5, 18064 and 18064.5, or that any of the conditions exist providing for automatic cancellation of a license pursuant to Health and Safety Code Section 18065, the department may post Prohibited Sales

Notices, conspicuous to the public, on the manufactured homes, mobilehomes or commercial coaches.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Sections 18020, 18045 and 18065, Health and Safety Code.

HISTORY

1. New Section filed 2–1–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 5083. Monetary Penalties for Compromise Settlements.

Payment of the following monetary penalties may be required of an occupational licensee pursuant to a compromise settlement agreement between the Director and the licensee entered into pursuant to the provisions of Health and Safety Code Section 18064.5.

(a) A minimum of $150.00 and a maximum of $500.00 for each violation of the following provisions of law: Health and Safety Code Sections 18058.5; 18059(b,c); 18059.5(a,b); 18060(a,c); 18060.5(d,g); 18061)d); 18061.5(b); and 18062.2(a,g,h).

(b) A minimum of $100.00 and a maximum of $500.00 for each violation of the following provisions of law: Health and Safety Code Sections 18059(a); 18060(b); 18060.5(b,f); 18061(a,b,c,e); 18061.5(a); 18062(a,b,c); 18062.2(b,c); and 18062.5(a–e).

(c) A minimum of $50.00 and a maximum of $500.00 for each violation of the following provisions of law: Health and Safety Code Sections 18062.2(d,e,f).

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18064.5, Health and Safety Code.

Article 9. 90–Day Certificate Requirements

§ 5090. 90–Day Certificate Expiration.

(a) All 90–day certificates expire 90 days from the date of initial issuance. Expired certificate holders shall either:

(1) Submit their expired certificates to the department within 10 days or,

(2) Submit their expired certificate to the department within 3 months of expiration, along with all salesperson application requirements in accordance with Section 5020(i).

(b) Any 90–day certificate holder working with an expired certificate without obtaining licensure status through this department may be subject to license refusal, or at the discretion of the Department be subject to a penalty of 50 percent of the license fee in accordance with Section 5010(a).

NOTE: Authority cited: Sections 18015 and 18052.6, Health and Safety Code. Reference: Sections 18045, 18050.5(h), 18052.6, 18055 and 18058(b), Health and Safety Code.

HISTORY

1. New section filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

§ 5092. Suspension/Refusal to Issue/Revocation.

The department's review of an application for a 90–day certificate shall be subject to the provisions of Health and Safety Code, Section 18050.5.

NOTE: Authority cited: Sections 18015 and 18052.6, Health and Safety Code. Reference: Sections 18050.5, 18052.6, 18058 and 18065, Health and Safety Code.

HISTORY

1. New section filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

§ 5094. Supervision of Certificate Holders.

The dealer and/or a responsible managing employee shall directly supervise the activities of all 90–day certificate holders. "Directly Supervise" includes:

(a) Continuous availability of the responsible managing employee or dealer to the 90–day certificate holder(s) on the premises of the dealer and

(b) On an exclusive basis, supervises the activities of the 90–day certificate holder(s) and

(c) Regularly oversees the activities of the certificate holder(s) and assures their compliance with the laws governing mobilehome/manufactured housing or commercial coach sales and/or leasing.

NOTE: Authority cited: Sections 18015, 18052.6 and 18052.7, Health and Safety Code. Reference: Section 18052.7, Health and Safety Code.

HISTORY

1. New section filed 11–25–91; operative 12–26–91. (Register 92, No. 12).

Subchapter 2. Preliminary and Continuing Education

§ 5300. Definitions.

The following definitions shall govern this chapter:

(a) Clock hour. Fifty (50) continuous minutes in an approved preliminary or continuing education course, seminar, or conference excluding breaks for meals or rest.

(b) Continuing Education Course. A class, seminar or conference approved by the department, pursuant to law and this chapter, which offers licensees continuing education clock hour credits on one topic.

(c) Correspondence Course. A continuing education program of a single topic approved by the department and transmitted by mail between a licensee and an approved course provider.

(d) Course Provider. A person or entity offering preliminary or continuing education courses approved by the department. A course provider meeting the minimum qualifications established in this chapter may also be an approved instructor.

(e) Instructor. A person approved by the department to present preliminary or continuing education courses while in the employ of a course provider. An instructor may also be a course provider.

(f) Preliminary Education Course. A class, seminar or conference approved by the department pursuant to law and this chapter relating to laws and regulations governing manufactured home and mobilehome sales, specifically designed for persons not holding a manufactured home or mobilehome dealer or salesperson license.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Sections 18056, 18056.2 and 18056.4, Health and Safety Code.

HISTORY

1. New Subchapter 2 (Sections 5300–5366, not consecutive) filed 5–8–86 as an emergency; effective upon filing (Register 86, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–5–86.
2. Emergency language filed 5–8–86 repealed by operation of Government Code Section 11346.1(g) (Register 86, No. 50).
3. New Subchapter 2 (Sections 5300–5368, not consecutive) filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87.
4. New Subchapter 2 (Sections 5300–5368, not consecutive) refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
5. Certificate of Compliance including amendment transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5301. Applicant Qualification to Receive Public Benefits.

When applying for a Continuing Education Course Approval, Preliminary Education Course Approval or Instructor Approval, or the renewal of a Continuing Education Course Approval, Preliminary Education Course Approval or Instructor Approval, if the applicant has not previously been determined to be eligible to receive public benefits, the applicant shall present documentation necessary to determine the applicant's qualification to receive public benefits pursuant to chapter 5.5 of this division, beginning with section 5802.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; and Sections 18056, 18056.2 and 18056.4, Health and Safety Code.

HISTORY

1. New section filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–4–98 order, including amendment, transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 5302. Application and Scope of Preliminary Education Requirements.

On or after January 1, 1987, preliminary education requirements apply to all manufactured home and mobilehome dealer and salesperson license holders and applicants for such licenses, as specified in law and this subchapter. Applicants for licenses to sell only commercial coaches are not subject to preliminary education requirements.

(a) All persons applying for a manufactured home and mobilehome dealer license participating in the direction, control or management of the sales operation of the dealership, shall have completed an approved preliminary education program before applying for the dealer examination except as otherwise provided in this section.

(b) No partner, controlling stockholder, director, general manager or officer shall participate in the direction, control or management of the sales operation of a dealership prior to satisfying the provisions of this chapter relating to licensing and preliminary education.

(c) All persons applying for a manufactured home and mobilehome salesperson license shall have completed an approved preliminary education program before applying for the salesperson examination except as otherwise provided in this section.

(d) Holders of a valid dealer license, that have already satisfied the preliminary education requirement, and subsequently apply for a salesperson or another dealer license, are not required to attend another preliminary education program.

(e) Holders of a valid salesperson license, that have already satisfied the preliminary education requirement and subsequently apply for a dealer license, are not required to attend another preliminary education program.

(f) As specified in Section 5304, Continuing Education requirements apply to applicants who held a manufactured home or mobilehome dealer or salesperson license which has expired or was surrendered or cancelled within one (1) year of the new application for a manufactured home or mobilehome dealer or salesperson license.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056, 18056.2 and 18056.4, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 day or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance including amendment of subsections (a) and (b) transmitted 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5304. Application and Scope of Continuing Education Requirements.

(a) Applicants for and holders of manufactured home and mobilehome dealer and salesperson licenses are subject to continuing education requirements as specified in law and this section and Section 5306.

(b) Holders of licenses to sell only commercial coaches are not subject to continuing education requirements.

(c) The continuing education requirements apply to owners, each partner, controlling stockholder, director, general manager and officer who participates in the direction, control or management of the sales operation of a manufactured home or mobilehome dealer.

(d) Continuing education requirements apply to applicants who held a manufactured home or mobilehome dealer or salesperson license which has expired or was surrendered or cancelled within one (1) year of the new application for a manufactured home or mobilehome dealer or salesperson license.

(e) All continuing education clock hour credits applied toward the renewal of a dealer or salesperson license shall have been earned during the term of the license to be renewed, except as provided in Section 5318.

(f) Holders of both a manufactured home and mobilehome dealer and salesperson license may apply the same continuing education clock hour credits toward the renewal of both licenses, provided the credits were earned within the respective licensure terms.

(g) Any partner, controlling stockholder, director, general manager or officer within the ownership of a dealership, who becomes a participant in the direction, control or management of the sales operation of a dealership after issuance of the license is subject to continuing education requirements at the time of license renewal if more than six (6) months remain in the licensure term. Clock hour requirements for such persons shall be equal to one (1) clock hour for each full month remaining in the licensure term exceeding six (6). The topic requirements imposed by Section 5306 shall not apply.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056, 18056.2 and 18056.4, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50) A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance including repealer of subsection (g) transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).
4. New subsection (g) filed 11–5–87; operative 12–5–87 (Register 87, No. 46).

§ 5306. Continuing Education Topic Requirements for Dealers and Salespersons.

(a) Each person subject to continuing education shall complete course topics as specified in this section.

(b) Each person required to complete a minimum of twenty–four (24) clock hours of continuing education shall complete approved courses in the following topics for the first license renewal occurring after the effective date of this subchapter.

(1) Laws and regulations governing manufactured housing manufacturing and sales.
(2) Escrow.
(3) Advertising and Misrepresentations.
(4) Registration and Titling.
(5) Purchase Documents.
(6) Warranties.
(7) Mobilehome Park Residency Law and Mobilehome Park Act.

If additional courses must be taken in order to earn the minimum clock hour requirement, those remaining clock hours may be earned in any approved course(s) of other topics.

(c) Persons subject to less than twenty–four (24) clock hours of continuing education as provided in law or Section 5304 shall complete an approved course in Laws and Regulations Update and any remaining clock hour requirements shall be earned in any approved continuing education course(s) on topics of the licensee's choice.

(d) The department shall not accept clock hour credits earned by repeating any one course provided by the same course provider or instructor within any one licensure term.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056, 18056.2 and 18056.4, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

4. Amendment of subsection (c), repealer of subsection (d) and subsection relettering filed 2–6–98; operative 3–8–98 (Register 98, No. 6).

§ 5308. Minimum Standards for Preliminary Education Courses.

(a) All preliminary education courses shall comply with the provisions of this section.

(b) Course curriculum shall provide instruction in at least the following topics pertaining to manufactured housing:

(1) Introduction to the Laws and Regulations governing manufactured housing, manufacturing and sales.

(2) Warranties.

(3) Alternations to manufactured homes or mobilehomes.

(4) Escrow and purchase documents.

(5) Sales of noncomplying manufactured homes and mobilehomes.

(6) Advertising and misrepresentations.

(7) Taxation.

(8) Registration and Titling.

(c) No course shall be approved which provides instruction in subjects relating to business promotion, office and business skills, or sales techniques.

(d) Course curriculum may set aside up to thirty (30) minutes at the end of the course presentation for open discussions between the instructor and the participants. This subsection is not intended to eliminate participant questions and instructor responses necessary to facilitate the participant's understanding during the course presentation.

(e) Breaks for meals and rest may be arranged as deemed appropriate by the course provider or instructor, however, such time shall not intrude into the clock hours designated for the course.

(f) Preliminary education courses may utilize oral, written, audio and audio–visual presentations. Audio and audio–visual presentations may contain voices and images of persons other than the approved instructors.

(g) Except for courses consisting entirely of audio or audio–visual presentations, all courses shall be presented by only approved instructors. Courses presented entirely by audio or audio–visual means may be presented by the course provider or other person in the employ of the course provider, otherwise an approved instructor is required.

(h) Approved curriculums or materials shall not be altered or eliminated, or new materials or topics shall not be introduced and used prior to the approval of the department. Applications to change approved courses shall comply with Section 5346 of this subchapter.

(i) Applications for preliminary education course approval shall comply with Section 5340 of this subchapter.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056, 18056.2 and 18056.4, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5310. Minimum Standards for Continuing Education Courses.

(a) All continuing education courses shall comply with the provisions of this subchapter, except as provided in Section 5312 for correspondence courses.

(b) Course curriculum shall provide for no less than two (2) clock hours of continuing education for any one course.

(c) Course curriculum shall be related to the topics required by this subchapter or other topics related to manufactured housing sales requirements imposed by law or regulation. No course shall be approved which provides instruction in subjects relating to business promotion, office and business skills, or sales techniques.

(d) Course curriculum may set aside up to ten (10) minutes for every clock hour for open discussions between the instructor and the participants. This subsection is not intended to eliminate participant questions and instructor responses necessary to facilitate the participant's understanding during the course presentation.

(e) Breaks for meals and rest may be arranged as deemed appropriate by the course provider or instructor. Such time shall not intrude into the clock hours designated for the course.

(f) Courses may utilize oral, written, audio or audio–visual presentations or any combination of thereof. Audio and audio–visual presentations may contain voices and images of persons other than approved instructors.

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(g) Except for courses consisting entirely of audio or audio–visual presentations, all courses shall be presented by only approved instructors. Courses presented entirely by audio or audio–visual means may be presented by the course provider or other person in the employ of the course provider, otherwise an approved instructor is required.

(h) Approved curriculums or course materials shall not be altered or eliminated, or new materials or topics shall not be introduced and used prior to the approval of the department. Applications to change approved courses shall comply with Section 5346 of this article.

(i) Applications for Continuing Education Course Approval shall comply with Section 5342 of this subchapter.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056, 18056.2 and 18056.4, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certification of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–76. For prior history, see Register 86, No. 19, ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance including amendment of subsection (e) transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5312. Minimum Standards for Continuing Education Courses by Correspondence.

(a) Continuing education courses shall provide no less than two (2) clock hours of education. Such courses shall utilize written, audio or audio–visual lessons and a written examination to be completed after the lesson.

(b) Written instructions shall be provided by the course provider advising the licensee and proctor of the requirements of this section.

(c) For each one (1) clock hour to be earned, the examination shall contain no less than five (5) essay type questions related to the course topic. Thirty (30) minutes shall be permitted for the completion of each five (5) questions. Course providers shall rotate the examinations by administering the use of three (3) different examinations for each course. The examination shall be provided in a sealed envelope bearing instructions which read "TO BE OPENED IN THE PRESENCE OF AN APPROVED PROCTOR ONLY. VOID IF OPENED OTHERWISE . . . ." A return envelope shall be provided which is suitable for mailing and of sufficient size to accommodate an unopened or opened examination, and bears the name and address of the course provider.

(d) Approved proctors shall include the course provider, a notary public, an officer in the armed forces on active duty, an approved instructor or other approved course provider, an attorney, a librarian at a public or school library, or a representative of the department. No person related by blood, marriage, employment, or otherwise having a conflict of interest with a licensee, shall serve as a proctor for the licensee.

(e) The proctor shall be instructed to complete a certification form provided by the course provider which makes provisions for the following:

(1) The proctor's name and address and telephone number.

(2) The proctor's qualifying occupation, title or position.

(3) The licensee's name, address and license number issued by the department.

(4) A certification statement indicating the means used to identify the licensee, that the proctor has no conflict of interest with the licensee due to employment, relation by marriage or blood, that the examination envelope was found sealed and only broken in the proctor's presence, that the examination was completed by the licensee in the proctor's presence without the use of any written materials or aids of any kind, that the examination was not copied by any means, and that the examination was returned to the course provider by the proctor through the U.S. Mail, or by similar mailing services, or by personal delivery.

(5) The proctor's signature.

(f) The course provider or instructor shall grade the examination and notify the licensee of the results within ten (10) days of receipt. Should the licensee score less than 70 percent, the course provider shall provide the licensee with a second examination with different questions, to be taken under the same conditions as the first examination. Should the licensee score less than 70 percent on the second examination, the licensee has failed the course and may not attempt the examination again.

(g) No licensee shall be permitted to copy or reproduce any examination or portion thereof.

(h) All correspondence courses shall be completed within sixty (60) days of the registration date. For the purposes of this section, the registration date shall be the date the course provider mails or otherwise delivers the course material to the licensee as evidenced by the course provider's records. The registration date and completion date shall be printed in the instructions to the licensee.

(i) The course provider shall disqualify any licensee when the actions or omissions to act by either the licensee or the proctor result in a violation of this section.

If a licensee for whatever reason chooses not to complete a course and fails to return the examination, unopened, to the course provider within sixty (60) days of the registration date, the licensee shall be disqualified. The instructions to the licensee shall include a warning regarding disqualification as prescribed in this section.

(j) All disqualifications by course providers shall be reported to the department within ten (10) days.

(k) Once disqualified due to the licensee's acts or omissions to act, clock hour credits earned by correspondence after the disqualification shall not be accepted for the license renewal. A disqualification shall only extend to the end of any one licensure term.

(l) Each set of three (3) correspondence course examinations required by this section shall be used concurrently with the course approval period. When applying for course approval renewal, the course provider shall submit new examinations for use with the renewed course. Expired examinations shall not be used, but shall be maintained with the course provider's records.

(m) Applications for Continuing Education Course Approval shall comply with Section 5342 of this subchapter.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056, 18056.2 and 18056.4, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19, ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance including amendment of subsections (e) and (i) transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5314. Course Challenges.

(a) Course providers may provide for challenge examinations of approved continuing education courses. Course providers shall rotate the examinations by administering the use of three (3) separate examinations for each course. Examinations shall contain no less than five (5) essay type questions requiring written answers for each clock hour to be earned.

Challenge examinations shall be administered and corrected by the course provider or approved instructor only. The course provider shall establish the maximum time permitted for the examination, but in no case shall the time be less than thirty (30) minutes for each five (5) questions.

(b) No licensee shall be permitted to acquire more than six (6) clock hours of continuing education by challenges. The combination of challenges and approved equivalency pursuant to Section 5316 shall not exceed 50 percent of total clock hour requirements for any one person.

(c) Course challenge examinations, if permitted, shall be submitted along with the Application for Continuing Education Course Approval specified in Section 5342 of this subchapter.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Section 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance including amendment of subsections (a) and (c) transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5316. Claims of Equivalency.

(a) The department may grant continuing education clock hour credits for activities which have provided educational opportunities at least equivalent to attendance at approved continuing education courses as prescribed in this section.

(b) Acceptable alternative activities may include, but are not limited to the following:

(1) Instruction at an approved preliminary or continuing education course.

(2) Development or research of information or materials associated with an approved continuing education course or unapproved course if the curriculum would otherwise meet the requirements of this subchapter for a continuing education program.

(3) Authorship of published articles, periodicals or books on subjects relating to the requirements in laws or regulations governing manufactured housing sales.

(4) Instruction of, or attendance at, an education program not approved by the department for continuing education, but which is sufficiently related to manufactured housing activities.

(c) The department may grant up to a maximum of two (2) hours of continuing education clock hour credits for every one hour of equivalent activity.

(d) No licensee shall be granted clock hour credits for equivalents totalling in excess of fifty (50) percent of the licensee's total clock hour requirements. The combination of total clock hour credits earned by both challenges and equivalents shall not exceed fifty (50) percent of the total clock hour requirements.

(e) Applications for Equivalency Approval shall comply with Section 5352 of this subchapter and be received by the department prior to six (6) months before the license expiration date. Qualifying activities performed within the last six (6) months of the licensure term shall be applied to the next license renewal.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Section 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5318. Exemptions.

(a) As prescribed in law and this section, the department may grant exemptions from the continuing education requirement and renew an expiring license where the required clock hour credits have not been earned and one or more qualifying conditions exist.

(b) Qualifying conditions are those which are beyond the control of the licensee and have made it impossible for the licensee to acquire the required clock hour credits over the last six (6) months of the licensure term including:

(1) Health conditions or prescribed treatment of health conditions which are verified in writing by a physician and which have not allowed the licensee to work in the licensed capacity.

(2) Active duty in the military service with assignment to duty outside the state.

(c) Conditions relating to the convenience of the licensee such as travel and time needed to attend courses or disruption of employment will not be considered for exemption.

(d) Any licensee granted an exemption shall earn the clock hours originally required at the time of renewal, within ninety (90) days of the elimination of the condition which warranted the exemption and shall submit a revised application for license renewal to the department.

(e) Applications for Exemption shall comply with Section 5354 of this subchapter.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Section 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5320. Required Changes to Approved Courses.

(a) Whenever an approved course becomes inaccurate because of statutory or regulatory changes enacted after the course approval, the department shall provide the course provider a written notice of the change. The notice shall order the course provider to review the approved course and make appropriate changes.

(b) When changes to approved courses are ordered, the course provider shall be provided thirty (30) days to make the ordered changes or discontinue the use of the course.

(c) Course changes pursuant to this section shall be submitted to the department on an Application for Approval of Changes to Approved Courses specified in Section 5346 of this subchapter.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Section 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5322. Certificates of Completion.

(a) Within five (5) days of the completion of preliminary and continuing education courses, including correspondence courses and course challenges, course providers shall complete and issue a Certification of Completion to each participant completing the course. Course providers shall obtain the Certification of Completion from the department and provide the following information:

(1) A serial number.

(2) The course provider name, address and approval number(s).

(3) The instructor's name and approval number.

(4) The title and approval number of the course.

(5) The date and address of the course location, except for correspondence courses.

(6) The clock hour credit earned.

(7) The participant's name.

(8) The license number of licensees.

(b) In addition to the requirements of subsection (a), within five (5) days of the completion of each preliminary or continuing education course, including correspondence courses and course challenges, the course provider shall complete and submit a Certification of Course Pre-

sentation provided by the Department. The course provider shall provide the following information along with the fee specified in Section 5360:

(1) The course provider name and address.

(2) The instructor name and approval number.

(3) The title and approval number of the course.

(4) The type of course, either preliminary, or continuing education by correspondence, classroom or challenge.

(5) The date and address of the course or challenge, except for correspondence courses.

(6) The name of each person completing the course.

(7) The license number of each licensee.

(8) The clock hour credits earned.

(9) Any other information reasonably required by the department in order to assure compliance with this subchapter.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056, 18056.2 and 18056.4, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5324. Expiration of Course Approval.

(a) All preliminary and continuing education course approvals shall expire on the last day of the twenty-fourth (24th) month following the month of the original approval. No expired course shall be offered or presented.

(b) Course providers applying for renewal of course approvals shall make any amendments necessary to bring the course curriculum or material into compliance with statutory or regulatory changes enacted after the date of approval.

(c) Applications for renewal of course approval shall comply with Section 5344 of this chapter.

Applications should be received by the department ninety (90) days before the expiration date in order to allow processing and any review of course changes.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance including amendment of subsection (a) transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5326. Instructor Qualifications.

(a) Instructors for preliminary and continuing education courses shall meet at least one of the following qualifications:

(1) A bachelor's degree in a related field to that in which the person is to teach, from a college or university with accreditation approved by the U.S. Department of Education.

(2) Five (5) years full-time experience in the applicable field or course subject matter.

(3) Any combination of at least five (5) years of full-time experience and college level education in the applicable field or course subject matter.

(b) No licensee shall be approved as an instructor who has a record of license revocation, suspension, probation, or orders to pay fines or penalties pursuant to a hearing or stipulation and waiver resulting from departmental action against the licensee.

(c) No person having been convicted of a felony, a misdemeanor involving moral turpitude, or misdemeanor associated with manufactured housing sales, shall be approved as an instructor.

(d) Applications for Instructor Approval shall comply with Section 5348 of this chapter.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056 and 18056.2, Health and Safety Code.

HISTORY

1. New sections filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certification of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5328. Expiration of Instructor Approval.

(a) Instructor approvals shall expire on the last day of the twenty-fourth (24th) month following the month of the original approval.

(b) Instructors with expired approval shall not make preliminary or continuing education course presentations.

(c) Applications for Instructor Approval Renewal shall comply with Section 5350 of this chapter.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance including amendment of subsection (a) transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5330. Advertising Requirements.

Except for general advertisements of the availability of approved preliminary or continuing education courses, all specific advertisements for courses, whether printed or broadcasted, shall include the following:

(a) Course provider and instructor name(s).

(b) Course title.

(c) Course approval number issued by the department.

(d) The number of clock hours to be earned.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5332. Course Provider Notice Requirement.

Except for correspondence courses and course challenges, course providers shall notify the department of all course offerings at least ten (10) days prior to the starting date of each course by submittal of a form provided by the department. The course provider shall provider for the following information:

(a) Course provider and instructor name(s).

(b) Course title and approval number issued by the department.

(c) The scheduled date, time and location of the course presentation.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18056 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5334. Access and Denial to Course Offerings.

(a) No person shall be prohibited from attending approved courses because of their affiliations, memberships, or employment.

(b) Course providers may refuse enrollment or disqualify persons for failure to pay registration fees or for disruptive conduct during course presentations.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Sections 18056 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5336. Course Provider Attendance Controls and Record Keeping Requirements.

(a) Course providers shall conduct attendance controls during the course presentation and shall disqualify any person not physically present throughout the course presentation.

(b) Prior to the issuance of the Certificate of Completion specified in Section 5322, course providers shall verify the identity of each course participant, by review of a valid driver's license or identification card issued by the California Department of Motor Vehicles.

(c) Course providers shall maintain records of attendance documents, certificates of completion, certificates of course presentation and any challenge examinations for a minimum of three (3) years. For correspondence courses, records of the proctor's name, address and qualifying title or position, date and location of the examination, and copies of all examinations administered shall be maintained for a minimum of three (3) years.

(d) Course provider records shall be readily available for review by the department at the course provider's business location.

(e) The department may request that copies of course provider records be made and submitted to the department for review.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18020, 18056, and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5338. General Requirements and Prohibitions.

(a) No person shall earn more than 25 percent of his or her required continuing education credits from a course provider who is licensed as a manufactured home and mobilehome dealer or salesperson and is the employee or employer of the person earning credits.

(b) All course provider ownership, address and telephone number changes shall be reported to the department on a form provided by the department within ten (10) days of the effective date of the change, along with the fee specified in Section 5360.

(c) Instructor name, address and telephone number changes shall be reported to the department on a form provided by the department within ten (10) days of the effective date of the change, along with the fee specified in Section 5360.

(d) The department shall not accept continuing education clock hour credits earned by challenge examinations as permitted in Section 5314, when the course provider is the licensee's employer or employee.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18031, 18056 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5340. Application for Preliminary Education Course Approval.

(a) Persons or entities seeking approval of a preliminary education course shall submit an Application for Preliminary Education Course Approval, form HCD OL ED 122 (Rev. 11/05), which is incorporated by reference, provided by the department. On the application form or as an attachment thereto, the applicant shall provide the following information and materials:

(1) The name, address and telephone number of the applicant.

If the applicant is not a natural person, the names and titles of all directors, officers or partners of the entity and the entity name, address and telephone number.

(2) A disclosure of any licenses issued by the department pursuant to this chapter to the individual course provider, any director, officer or partner of an entity.

(3) A disclosure of any convictions of any felonies or misdemeanors of any owner, director, officer or partner.

(4) Two full facial photographs of each individual owner and each director, officer or partner of an entity, minimum size 1 1/4″ by 1″, taken from a maximum distance of six feet.

(5) For each individual owner and each director, officer or partner of an entity unless already on file with the department in conjunction with a previous application, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of form HCD OL 8016 (New 11/05), "Request for Live Scan Service", which is incorporated by reference, or the equivalent form provided by DOJ. The HCD OL 8016 form or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation;

(6) A description as to how the course will be presented.

(7) Copies of all written, audio and audio-visual presentations, lessons, reference materials or other materials the course attendants will be provided or required to possess.

(8) An outline of the course curriculum with a designation of the time allotted to each segment of the curriculum. The outline shall reference

any written materials, audio or audio-visual presentations, as provided in subsection (a)(7) above. Such outline shall contain all topics required by Section 5308 of this subchapter.

(9) A description of the method of attendance control and record keeping.

(10) The signature of the applicant certifying to the accuracy of the application and that the course will be presented as approved and conducted in a manner satisfying the intent of the law and requirements of this subchapter.

(b) The application shall be accompanied by the fee specified in Section 5360 of this subchapter for Preliminary Education Course Approval.

NOTE: Authority cited: Sections 18015 and 18052, Health and Safety Code. Reference: Sections 18031 and 18056.2, Health and Safety Code; and Sections 11077.1 and 11102.1, Penal Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).
4. Amendment of subsection (a), repealer and new subsection (a)(5), amendment of subsections (a)(7)-(8) and (b) and amendment of NOTE filed 11-7-2005; operative 11-7-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 45).

§ 5342. Application for Continuing Education Course Approval.

(a) Persons or entities seeking approval of a continuing education course shall submit an Application for Continuing Education Course Approval provided by the department. On the application form or as an attachment thereto, the applicant shall provide the information specified in Section 5340(a)1, 2, 3, 4, 5, 6, 7, 9, and 10, and the following:

(1) If the topic is not required by this subchapter, an explanation of the topic and how it relates to manufactured home and mobilehome sales and benefits a licensee.

(2) The course title which shall include reference to the course topic and an outline of the course curriculum with a designation of the time allotted to each topic segment of the curriculum. The outline shall reference any written materials, audio and/or audio-visual presentations or reference materials the course attendees will be provided or required to possess.

(3) For correspondence courses, copies of all written, audio, and/or audio-visual lessons or presentations or other material provided or required to be possessed by those taking the course, the examination(s), instructions, warnings, certifications and envelopes in the form required by Section 5312.

(4) If challenge examinations are to be permitted, a copy of all examinations to be used and information as to the examination administration and maximum time permitted for completing the examination.

(5) The clock hours to be earned.

(b) The application shall be accompanied by the fee specified in Section 5360 for Continuing Education Course Approval or the Continuing Education Course by Correspondence Approval, whichever is appropriate.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18031 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5344. Application for Course Approval Renewal.

(a) Any course provider seeking renewal of a previously approved preliminary education or continuing education course shall submit an Application for Course Approval Renewal provided by the department. On the application or as an attachment thereto, the applicant shall provide the following information and materials:

(1) The name, address and telephone number of the applicant.

(2) The course approval number issued by the department.

(3) A disclosure of any change(s) to the course provider ownership and all information required in Section 5340(a)(1)(2)(3)(4) and (5) for each new director, officer or partner.

(4) A disclosure of any convictions of felonies or misdemeanors of any owner, director, officer, or partner since the original application.

(5) An itemized description of any change(s) to the course as originally approved.

(6) Copies of any changed or new material.

(7) For correspondence courses, a copy of the new examinations as required by Section 5312.

(8) The signature of the applicant certifying to the accuracy of the application.

(b) The application shall be accompanied by the fee specified in Section 5360 for Preliminary or Continuing Education Course Approval Renewal.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Sections 18031 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5346. Application for Approval of Changes to Approved Courses.

(a) Course providers seeking approval of voluntary changes or changes ordered by the department pursuant to Section 5320 of this subchapter, shall submit an Application To Change Approved Courses provided by the department. On the application form or as an attachment thereto, the applicant shall provide the following information:

(1) The name, address and telephone number of the applicant.

(2) The course approval number issued by the department.

(3) An itemized description of the change(s) to the course as originally approved.

(4) Copies of any changed or new material.

(5) If the change(s) is a voluntary change, an explanation of the purpose for the change.

(6) The signature of the applicant certifying to the accuracy of the application.

(b) The application shall be accompanied by the fee specified in Section 5360 for Approval of Changes to Approved Courses.

(c) The department shall require substantially altered courses to be submitted for approval pursuant to Sections 5340 or 5342. A substantially altered course is one requiring more than one and one half (1 1/2) hours for processing and review by the department.

NOTE: Authority cited: Sections 18015, and 18056.2, Health and Safety Code. Reference: Sections 18031 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.

3. Certificate of Compliance transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5348. Application for Instructor Approval.

(a) Any person seeking approval to instruct preliminary or continuing education courses pursuant to this article, shall submit an Application for Instructor Approval, form HCD OL ED 124 (Rev. 11/05), which is incorporated by reference, provided by the department. On the application or as an attachment thereto, the applicant shall provide the following information:

(1) The name, address and telephone number of the applicant.

(2) The applicant's qualifications meeting the standards of Section 5326 of this subchapter.

(3) A disclosure of any licenses issued to the applicant by the department pursuant to this chapter.

(4) A disclosure of any convictions of misdemeanors or felonies.

(5) The applicant's signature certifying to the accuracy of the application.

(6) For each new applicant, fingerprints must be submitted through the Live Scan fingerprint process. Unless exempted by DOJ, applicants shall provide a properly completed and legible copy of form HCD OL 8016 (New 11/05), "Requests for Live Scan Service", which is incorporated by reference, or the equivalent form provided by DOJ. The HCD OL 8016 form or DOJ equivalent form must provide evidence that the fingerprints have been submitted to DOJ and that the department is properly listed as the agency to receive any criminal history information. Applicants applying for an exemption from the Live Scan process must submit their exemption requests through the department on the forms prescribed by DOJ. Fingerprints must be processed by a law enforcement agency or a DOJ-certified fingerprint roller. Additional fingerprinting may be required if the submitted fingerprints are rejected by DOJ or the Federal Bureau of Investigation;

(7) Two full facial photographs, minimum size 1 1/4″ by 1″, taken from a maximum distance of six feet.

(b) The application shall be accompanied by the fee specified in Section 5360 of this subchapter for an Application for Instructor Approval.

NOTE: Authority cited: Sections 18015 and 18056, Health and Safety Code. Reference: Sections 18031 and 18056.2, Health and Safety Code; and Sections 11077.1 and 11102.1, Penal Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance including amendment of subsection (a) transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).
4. Amendment of subsection (a), repealer and new subsection (a)(6), amendment of subsection (b) and amendment of NOTE filed 11–7–2005; operative 11–7–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 45).

§ 5350. Application for Instructor Approval Renewal.

(a) Any previously approved instructor seeking renewal shall submit an Application for Instructor Approval Renewal provided by the department at least thirty (30) days prior to the expiration of the instructor approval. The applicant shall provide the following information:

(1) The name, address and telephone number of the applicant.

(2) A disclosure of any licenses issued by the department to the applicant pursuant to this chapter since the original Application for Instructor Approval.

(3) A disclosure of any convictions of misdemeanors or felonies since the original application for instructor approval.

(4) The applicant's signature certifying to the accuracy of the application.

(b) The application shall be accompanied by the fee specified in Section 5360 for an Application for Instructor Approval Renewal.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Sections 18031 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5352. Application for Equivalency Approval.

(a) Any licensee seeking approval of activities believed to qualify under the provisions of Section 5316 of this subchapter shall submit an Application for Equivalency Approval provided by the department. The applicant shall provide the following information and materials.

(1) The applicant's name, address and telephone number.

(2) The applicant's license number issued by the department.

(3) A full description of the activities believed to qualify for equivalency along with substantiating materials and information, enabling the department to determine if the activities meet the provisions of Section 5316.

(4) The applicant's signature certifying to the accuracy of the application.

(b) The application shall be accompanied by the fee specified in Section 5360 for Application for Equivalency Approval.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Sections 18031 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5354. Application for Exemption.

(a) Licensees seeking an exemption from the continuing education requirements shall submit an Application for Exemption provided by the department, along with the Application for License Renewal. The applicant shall provide the following information and items:

(1) The applicant's name, address and telephone number.

(2) The applicant's license number issued by the department.

(3) A full description of the conditions believed to qualify for exemption pursuant to Section 5318, along with written substantiating information, documents or items.

(4) The applicant's signature certifying to the accuracy of the application.

(b) The application shall be accompanied by the fee specified in Section 5360 for Application for Exemption.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Sections 18031 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5356. Rejected Applications.

(a) For any application submitted pursuant to this subchapter which is found to be incomplete or in error, the department shall reject the application and provide the applicant with a written explanation identifying the

deficiencies and what must be done in order to make the application complete and acceptable.

(b) All fees submitted with an application which is subsequently rejected shall be retained by the department.

(c) All rejected applications which are corrected and resubmitted to the department for approval pursuant to this subchapter, shall be accompanied by the fee specified in Section 5360 for Resubmittal of Corrected Applications.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Sections 18020, 18031 and 18056.2, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5360. Fees.

(a) Application for Preliminary Education Course Approval. Five hundred eighty-eight dollars ($588).

(b) Application for Continuing Education Course Approval. Three hundred ninety-six dollars ($396) for the first four (4) hours plus eighty-seven dollars ($87) for each additional hour.

(c) Application for Instructor Approval. Four hundred seventy-two dollars ($472).

NOTE: This fee does not apply to an instructor of a college or university with accreditation approved by the U.S. Department of Education or to a course provider applying for instructor approval.

(d) Application for Approval of Changes to Approved Courses. One hundred seventy-eight dollars ($178) for each course.

(e) Application for Equivalency Approval.

One hundred sixty-seven dollars ($167) for the first two (2) hours plus sixty-six dollars ($66) for each additional hour.

(f) Application for Exemption. Two hundred eleven dollars ($211).

(g) Application for Preliminary or Continuing Education Course Approval Renewal. One hundred twenty-seven dollars ($127), plus sixty-three dollars ($63) if changes are made to the course or related materials.

(h) Application for Instructor Approval Renewal.

One hundred eight dollars ($108).

(i) Resubmittal of Corrected Applications. Twenty-five percent of the original filing fee specified in this section not to exceed one hundred dollars ($100).

(j) Change of Ownership, Name or Address. Forty-five dollars ($45).

(k) Certification of Course Presentation. Twenty-two dollars ($22) plus seven dollars ($7) for each attendee in a classroom type course; three dollars ($3) for each correspondence course or course challenge.

NOTE: Authority cited: Section 18015, Health and Safety Code. Reference: Section 18031, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).
4. Amendment filed 12-29-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 5362. Denial of Approval.

(a) The department shall not approve any application for approval submitted pursuant to this subchapter when any of the following conditions exist:

(1) The requirements of this subchapter have not been satisfied.

(2) The applicant for Instructor Approval or Course Approval has been convicted of a felony, a misdemeanor involving moral turpitude, or a misdemeanor associated with manufactured home or mobilehome sales.

(3) The applicant for Instructor Approval or Course Approval is or was a holder of a license issued by the department pursuant to this chapter which has been revoked, suspended; or if the applicant has been placed on probation, or the licensee has been ordered to pay fines, penalties or restitution pursuant to a hearing or stipulation and waiver resulting from departmental action against the licensee.

(b) When the department denies approval of an application submitted pursuant to this subchapter, the department shall provide written notice to the applicant describing the reasons for denial and providing information as to appeal rights.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Sections 18056, 18056.2 and 18056.4, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5364. Cancellation of Approval.

(a) Whenever the department discovers that a previously approved preliminary or continuing education course, instructor, or application is in violation of the provisions of this subchapter the department shall take enforcement action as prescribed in this section.

(b) If the violations can be corrected, the department shall provide written notice to the person responsible for the violations(s) and require correction within at least 20 days of the notice or such time as determined appropriate by the department.

(c) If the violations cannot be corrected, the department shall issue a written warning to the person(s) responsible for the violation(s) in which the violations(s) is identified and the recipient is ordered to immediately discontinue those activities which are in violation.

(d) If the violations were committed willfully, or when a person served with a written notice issued pursuant to this section fails to comply, the department shall cancel the approval status.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Section 18020, 18056, and 18056.2, 18056.4, Health and Safety Code.

HISTORY

1. New section filed 12-8-86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-7-87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4-6-87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8-4-87.
3. Certificate of Compliance transmitted to OAL 6-26-87 and filed 7-27-87 (Register 87, No. 32).

§ 5366. Appeals Procedure.

(a) Any person receiving a written notice issued pursuant to Sections 5362 or 6364, may request and shall be granted a presentation of views before the director or his or her designee. Such person shall file with the department a petition requesting a presentation of views. For the purposes of this section, a petition shall be a written request, briefly stating the grounds for the request.

(b) Upon receipt of a petition, the department shall set a time and place for the presentation of views and shall give the petitioner written notice thereof. The presentation of views shall commence no later than thirty (30) days after receiving the petition or such other time as requested by the petitioner if good and sufficient cause exists. Should the petitioner fail to appear at the scheduled time and place, the department may dismiss the petition without further action or take such other action as may be appropriate to obtain compliance.

(c) Within 30 days of the presentation of views, the department shall notify the petitioner in writing of the decision in the matter and the reasons therefor.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Section 18020, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance including amendment of subsection (c) transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

§ 5368. Enforcement.

In order to enforce the provisions of the Health and Safety Code relating to preliminary and continuing education and this subchapter, representatives of the department shall be permitted to:

(a) enter at reasonable times and without advance notice, any premises where preliminary or continuing education courses are presented and monitor such presentation;

(b) examine and copy any records or documents required by this subchapter;

(c) require the submittal of copies or records required by this subchapter;

(d) take such other action permitted by law to carry out the requirements of law and this chapter.

NOTE: Authority cited: Sections 18015 and 18056.2, Health and Safety Code. Reference: Sections 18020 and 18056, Health and Safety Code.

HISTORY

1. New section filed 12–8–86 as an emergency; effective upon filing (Register 86, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–7–87. For prior history, see Register 86, No. 19. ED. NOTE: Also refer to Section 5300 for complete HISTORY NOTE.
2. New section refiled 4–6–87 as an emergency; effective upon filing (Register 87, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–4–87.
3. Certificate of Compliance transmitted to OAL 6–26–87 and filed 7–27–87 (Register 87, No. 32).

* * *



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CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Division 1. Housing and Community Development

Chapter 5. Registration and Titling of Manufactured Homes, Mobilehomes, Multi-Unit Manufactured Housing, Commercial Coaches, Truck Campers, and Floating Homes

Vol. 33

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Chapter 5. Registration and Titling of Manufactured Homes, Mobilehomes, Multi–Unit Manufactured Housing, Commercial Coaches, Truck Campers, and Floating Homes

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Chapter 5. Registration and Titling of Manufactured Homes, Mobilehomes, Multi–Unit Manufactured Housing, Commercial Modulars, Truck Campers, and Floating Homes

Article 1. Administration

§ 5510. Application and Scope.

(a) The provisions of this chapter shall apply to manufactured homes, mobilehomes, multi–unit manufactured housing, commercial coaches, truck campers, and floating homes subject to registration with the department.

(b) Except as provided in Sections 5610, 5611, 5612, or 5613 the provisions of this chapter shall not apply to manufactured homes, mobilehomes, multi–unit manufactured housing, or commercial coaches installed on foundation systems pursuant to Section 18551 of the Health and Safety Code or a manufactured home, mobilehome, or multi–unit manufactured housing converted to a fixture and improvement to the real property pursuant to Section 18555 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18008.7, 18075, 18075.5, 18075.55, 18075.6, 18075.7, 18084.7 and 18080.5, Health and Safety Code.

HISTORY

1. New chapter 5, article 1 (sections 5510–5511) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1). For prior history of chapter 5, subchapter 1, sections 5500–5509, see Register 96, No. 1.
2. Change without regulatory effect amending chapter 5 heading filed 7–6–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 27).

§ 5511. Definitions.

The following definitions shall apply to the provisions of this chapter in addition to the definitions set forth in Health and Safety Code Sections 18001 through 18014.

(a) "Administrator" means a person appointed by the Superior Court, as documented by letter(s) of administration, to administer an estate and to dispose of any estate property when a person dies without a will.

(b) "Annual Registration Fee" means the fee required by Health and Safety Code Section 18114(a) that must be paid to the department annually for the renewal of the registration of each transportable section of a manufactured home, mobilehome, or commercial coach not installed as a real property unit or not otherwise subject to local property taxation.

(c) "Annual Renewal Fees" means the combination of three separate fees: (1) the annual registration fee; (2) the annual vehicle license fee; and (3) the annual Mobilehome Park Purchase Fund fee.

(d) "Annual Vehicle License Fee" means the fee required by Health and Safety Code Section 18115 that must be paid annually to the department for the renewal of the registration of a manufactured home, mobilehome, or commercial coach not installed as a real property unit. Annual Vehicle License fees are due per transportable section.

(e) "Application for Registration" means the appropriate documents, fees, and taxes required to report or amend the description, ownership, and/or location of a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home.

(f) "California Resale License Number" means the account number issued by the Board of Equalization to a taxpayer.

(g) "Certificate of Title" means the titling document, issued by the department which evidences the registered owner of a unit and if applicable, all legal owners of a unit.

(h) "CF Number" means a permanent vessel registration number assigned by the Department of Motor Vehicles to vessels undocumented in accordance with the federal standards under the Department of Navigation and Ocean Development. In California, these numbers are prefixed by the letters "CF" followed by four numbers and a two–letter suffix (e.g., CF 1234 AB).

(i) "Chain of Ownership" means the documentation necessary to establish the succession of the ownership from the registered owner on the permanent title record through any subsequent owners to and including the new registered owner of a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home.

(j) (Reserved)

(k) "Commercial Coach" has the same meaning as provided in Section 18001.8 of the Health and Safety Code. A commercial coach may consist of multiple transportable sections. For purposes of Chapter 5, "commercial coach" shall refer to each transportable section.

(l) "Company" means a corporation, partnership (general or limited), limited liability company or partnership, joint venture, sole proprietorship, or other form of business entity authorized by the laws of the State of California.

(m) "COMPRO" is an acronym for community property used in certain documents issued by the department.

(n) "Conservator" means the person appointed by the Superior Court as conservator of the estate for an audit, or the limited conservator of a developmentally disabled adult.

(o) "Co–owner" means two or more persons owning a interest in a unit as tenants in common, joint tenants, or as community property as more fully described in Health and Safety Code Section 18080.

(p) "Date of Sale or Lease" means (1) for sales or leases by or through a dealer, the date the transaction is completed as provided in Section 18080.5(e) of the Health and Safety Code and (2) for other sales or leases, the date the transferor of a unit has endorsed and delivered the titling document as provided in Section 18101 of the Health and Safety Code.

(q) "Dealer" means a person licensed by the department pursuant to Chapter 7 of the Health and Safety Code commencing with Section 18045.

(r) "Decal" means the tag issued by the department as described in Health and Safety Code Section 18092 or by DMV to indicate registration of a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home.

(s) "DMV" is the abbreviation for the State Department of Motor Vehicles.

(t) "Emancipated Minor" means any person less than 18 years old who meets one or more of the following requirements:

(1) Who has entered into a valid marriage, whether or not such marriage was subsequently dissolved; or

(2) Who is on active duty with any of the armed forces of the United States; or

(3) Who has received a declaration of emancipation from a Superior Court pursuant to Section 7122 of the Family Code.

(u) "Encumber the Title" means to record a lien against a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home by the addition or change of a legal owner or junior lienholder.

(v) "Escrow Identifying Information" means the following: (1) the escrow file number (2) the escrow agent's name; (3) the escrow agent's address; (4) the escrow agent's telephone number; (5) the buyer(s) name(s); and if the transaction is by or through a dealer; (6) the selling dealer's name; (7) the selling dealer's license number; and (8) the selling dealer's address.

(w) "Estate" means the estate of a deceased person(s).

(x) "Executor" means a person appointed as the executor of an estate by a Superior Court and who has obtained Letters Testamentary.

(y) "Floating home" has the same meaning as in Health and Safety Code Section 18075.55(d).

(z) "Formal Title Search" means a computer printout provided by the department which includes descriptive data of a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck

camper, or floating home and all current registered owner and legal owner information, and any subsequent issued notice of changes to that information that occurs within 120 days.

(aa) "Fully Exempt Agency" means the agency or person that qualifies a manufactured home, mobilehome, multifamily manufactured home, commercial coach, or truck camper for an exemption from registration fees, pursuant to Section 18076 of the Health and Safety Code.

(bb) "Guardian" means the person appointed by the Superior Court as the guardian of the estate for a minor.

(cc) "HCD" means the department as defined in Section 18002.8 of the Health and Safety Code.

(dd) "HCD Insignia" means the tab or tag issued by the department, as required by Section 18026 of the Health and Safety Code, to indicate compliance on the date of issue, with the department's safety and construction regulations.

(ee) "HUD Label" means the federal label required by Section 18026 of the Health and Safety Code to indicate compliance with the federal safety and construction standards.

(ff) "ILT Fee" is an abbreviation for In Lieu Tax Fee.

(gg) "Indian Reservation" means a tract of land set aside by the Federal government for use by Indian people or a tribe.

(hh) "Individual" means one natural person 18 years of age or over.

(ii) "Informal Title Search" means a computer printout provided by the department revealing the descriptive data of a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home and all current registered owner and legal owner information.

(jj) "In Lieu Tax Fee" means the vehicle license fee described in Section 18115 of the Health and Safety Code.

(kk) "In Lieu Taxation" means the system of manufactured home, mobilehome, or commercial coach taxation that requires the payment of annual vehicle license fees pursuant to Section 18115 of the Health and Safety Code rather than local property taxation.

(ll) "Interest Group" means a person or group of persons who may be co-owners that share(s) an ownership interest in a unit one or more other persons who may also be co-owners.

(mm) "Inventory Creditor" has the same meaning as provided in Section 18035(b) of the Health and Safety Code.

(nn) "JTRS" is the acronym for "joint tenants."

(oo) "Junior Lienholder Identifying Information" means the name and address of the junior lienholder.

(pp) "Lessor/Lessee" means a registered owner designation when the owner of a unit chooses to identify a lessee of the unit as the unit's registered owner.

(qq) "Legal Owner Identifying Information" means the name and address of the legal owner.

(rr) "Local Property Taxation" means the system of taxation established by Revenue and Taxation Code, Division 1, Part 13, (commencing with Section 5800) for manufactured homes, mobilehomes, or multifamily manufactured homes, not subject to in lieu taxation.

(ss) "Mailing Address" means the address provided to the department to which any correspondence or documents are to be mailed.

(tt) "Manufactured Home" means a structure as defined by section 18007 of the Health and Safety Code. For the purpose of Chapter 5, "manufactured home" shall include all transportable sections that comprise the manufactured home.

(uu) "Manufacturer Certificate of Origin" or "MCO" means the certificate described in Health and Safety Code 18093.

(vv) "Minor" means a person under 18 years of age that is not an emancipated minor.

(ww) "Mobilehome" means a structure as defined by section 18008 of the Health and Safety Code. For the purpose Chapter 5, "mobilehome" shall include all transportable sections that comprise the mobilehome.

(xx) "Moratorium" means a temporary suspension of the manufactured home, mobilehome, multifamily manufactured homes, commercial coach, truck camper, or floating home record. This suspension will disallow any transfer of interest or the issuance of a certificate of title or registration card.

(yy) "Multifamily Manufactured Home" means a structure as defined by section 18008.7 of the Health and Safety Code. Multi-unit manufactured housing has the same meaning as "multifamily manufactured home", as that term is defined by section 18008.7 of the Health and Safety Code. For the purpose Chapter 5, "multifamily manufactured home" shall include all transportable sections that comprise the multifamily manufactured home.

(zz) "Nonresident Unit" means a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home previously located in another state and brought into the State of California.

(aaa) "Normal Signature" means any signature that involves one or more of the following circumstances:

(1) The use of the first, middle, and last name.

(2) The use of an initial in place of a first or middle name.

(3) The use of a common abbreviation of a first or middle name.

(4) The omission of a middle name or middle initial, or

(5) The use of a signature that identifies the person as being the same person whose printed name appears on the document.

(bbb) "Original Registration" means the first time the appropriate documents, fees, and taxes are filed with the department to report the description, ownership, and location of a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home and the required registration and titling documents are issued by the department.

(ccc) "Personal Property Taxation" means the system of taxation established by Revenue and Taxation Code, Division 1, Part 13, (commencing with Section 5800) for truck campers.

(ddd) "Perfected Lien Date and Time" means the date and time all required documents and fees required are received by the department to record a security interest acquired or retained on a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home.

(eee) "Rancheria" means the same as Indian reservation.

(fff) "Real Property Unit" means a manufactured home, mobilehome, multifamily manufactured home or commercial coach installed on a foundation system pursuant to Section 18551 of the Health and Safety Code or a manufactured home, mobilehome or multifamily manufactured home converted to a fixture and improvement to the underlying real property pursuant to Section 18555 of the Health and Safety Code.

(ggg) "Registered Owner Identifying Information" means the name(s) and address(es) of all registered owners.

(hhh) "Registration" means the recording by the department of the information contained in the application for registration.

(iii) "Registration Card" means the registration document issued by the department or by DMV that reflects ownership information and current registration status or the application for duplicate registration card which meets the requirements of Section 5551.

(jjj) "Resident" means any person who displays an intent to live in this state on more than a temporary or transient basis. A person's presence in the state for six months or more in any twelve-month period is recognized as proof of residence. Evidence of residence includes:

(1) Address where a person is registered to vote;

(2) A person's location of employment or place of business;

(3) A person's payment of resident tuition at a public institution of higher education;

(4) The attendance of a person's dependents at a primary or secondary school.

(5) A person's filing of a homeowner's property tax exemption;

(6) The rental or leasing of a home by a person for use as a residence;

(7) A person's declaration of residency to obtain a license or any other privilege or benefit not ordinarily extended to a nonresident;

(8) A person's possession of a California driver's license;

(9) Other acts, occurrences, or events that indicate a person's presence in the state is more than temporary or transient.

(kkk) "Signed Under Penalty of Perjury" means a declaration or statement on which the following statement appears prior to the date, place of signing an the declarant's signature: "I/We certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

(lll) "Sole Owner" means the registered owner of a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home for which no legal owner or junior lienholder has been recorded.

(mmm) "Subject to Local Property Taxation" means a floating home or a manufactured home, mobilehome, multifamily manufactured home not subject to in lieu taxation, either by virtue of (i) the unit owner's voluntary election to be subject to local property taxation; (ii) the fact that the unit was first sold on or after July 1, 1980; or (iii) the fact that the unit owner's involuntary conversion to local property taxation as a result of a delinquency in the payment of in lieu taxes.

(nnn) "Substitute Decal" means a decal issued by the department to replace a decal that was previously issued by DMV or HCD.

(ooo) "Substitute Year Sticker" means a year sticker issued by the department to replace a year sticker previously issued by DMV or HCD.

(ppp) "Tax Type" means the method of taxation that a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home is subject to. The four tax types are: In Lien Taxation, Local Property Taxation, Personal Property Taxation, and Real Property Taxation pursuant to Section 229 of the Revenue and Taxation Code. Units may be exempt from any of these types of taxation.

(qqq) "TENCOM" is an acronym for "tenants in common" used by the department on certain documents.

(rrr) "TENCOM AND" is an acronym for "tenants in common," with the names joined by "and" and used by the department on certain documents.

(sss) "TENCOM OR" is an acronym for "tenants in common," with names joined by "or" and used by the department on certain documents.

(ttt) "Titling Document" includes the following:

(1) The Certificate of Title issued by the department.

(2) The Ownership Certificate, Certificate of Ownership, or Certificate of Title issued by the Department of Motor Vehicles.

(3) The title issued for a unit by a regulatory agency in another state, or

(4) An application for a duplicate certificate of title, which meets the requirements of 5550.

(uuu) "Transaction Date and Time" means the date and time that all required documents and fees required in an application for registration of a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home are received by the department.

(vvv) "Transfer of Title" means an addition, change, or deletion of the registered owner, legal owner, or junior lienholder of a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home.

(www) "Transfer on Death Beneficiary" (TOD Beneficiary) means an individual designated by the registered owner as the individual to succeed the registered owner as the registered owner of a unit, pursuant to Section 18080.2 of the Health and Safety Code.

(xxx) "Transporter's Bill of Lading" means a document listing and acknowledging receipt of goods for shipment.

(yyy) "True Name" means either (1) the first, middle, and last name of an individual or (2) a name that is sufficiently descriptive to identify the individual recorded by the department as the registered owner, legal owner, or junior lienholder of a manufactured home, mobilehome, multifamily manufactured home, commercial coach, truck camper, or floating home. The use of the acronym "AKA" (meaning also known as) followed by any other name by which the individual is known may also be used as part of the individuals true name. The use of complimentary or professional titles may be added to the true name only if the individual is commonly addressed by that title. For example, either Mary Ann Smith or Mary A. Smith could be used as the true name.

(zzz) "Trustee" means the person designated as the trustee in a trust agreement.

(aaaa) "Unit", for the purposes of this chapter, means all the transportable sections of a manufactured home, mobilehome, or multifamily manufactured home; a truck camper or a floating home; and each transportable section of a commercial coach as defined in Section 18080.3 of the Health and Safety Code.

(bbbb) "Unit Identifying Information" means the following: (1) Each license plate number or decal number of a manufactured home, mobilehome, or multifamily manufactured home or the license plate number or decal number of a commercial coach, truck camper, or floating home; (2) the manufacturer's trade name of the unit, if any; and (3) each serial number of a manufactured home, mobilehome, or multifamily manufactured home or the serial number of a commercial coach, truck camper or floating home.

(cccc) "Use Tax" means the tax imposed upon the consumer of a manufactured home, mobilehome, or commercial coach, as specified in the Sales and Use Tax Law, Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(dddd) "Warehousemen's Lien" has the same meaning as provided in Section 7209 of the Commercial Code.

(eeee) "Year Sticker" means the sticker issued which displays the year of registration expiration issued by the department after payment of annual renewal fees for a manufactured home, mobilehome, or commercial coach.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18001.8, 18002.8, 18007, 18008, 18008.7, 18026, 18035(b), 18075.55(d), 18076, 18076.5, 18080, 18080.1, 18080.2, 18080.3, 18080.5, 18085, 18090.5, 18092, 18093, 18100.5, 18101, 18114, 18115, 18551 and 18555, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).
2. Change without regulatory effect amending section filed 7-14-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 29).

Article 2. Registration of Units Not Previously Registered in California

§ 5520. Registration of a New Manufactured Home or Multi-Unit Manufactured Housing.

(a) A California licensed dealer shall register with the department each new manufactured home or multi-unit manufactured housing sold, rented, leased, leased with an option to buy, or transferred by any other means by the dealer and not installed as a real property unit, within 10 days after the date of sale or lease. The application for registration shall meet the requirements of this section.

(b) The dealer shall complete and submit to the department a form HCD 480.1, Dealer Report of Sale or Lease, New Manufactured Home or Multi-Unit Manufactured Housing, which meet the requirements of Section 5575.

(c) The dealer shall submit an original copy of form HCD 483.0, the MCO, which meets the requirements of Section 5560, completed to reflect the release of security interest in the manufactured home or multi-unit manufactured housing by the inventory creditor or lienholder. The inventory creditor or lienholder shall release its security interest by signing where designated on the form. In lieu of the release by the inventory creditor, one of the following may be submitted:

(1) a written acknowledgment from the inventory creditor which meets the requirements of subsection 5581(a)(2), indicating that its security interest in the unit described on the MCO has been satisfied; or

(2) a statement of conditional lien release which meets the requirements of subsection 5581(a)(3).

(d) For each legal owner and junior lienholder to be recorded, the dealer shall submit the information about the legal owner and junior lienholder required by the dealer report of sale submitted pursuant to subsection 5520(b).

(e) The dealer shall also submit the following fees:

(1) all fees and penalties due and payable pursuant to Sections 18114 and 18114.1 of the Health and Safety Code;

(2) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(3) for each legal owner or junior lienholder to be recorded, the lien registration service fee required by subsection 5660(m);

(4) administrative service fees, if applicable, as specified in Section 18123.5 of the Health and Safety Code; and

(5) the dealer report of sale filing fee, as required by subsection 5040(j), Title 25, Division 1, Chapter 4.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18070.1(c), 18075.5, 18080.5, 18085, 18093, 18093.5, 18114, 18114.1 and 18123.5, Health and Safety Code.

HISTORY

1. New article 2 (sections 5520–5527) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (e) (replacing previously withdrawn subsection (e)) filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

3. Change without regulatory effect amending subsections (b)–(c) filed 7–6–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 27).

§ 5521. Registration of a New Commercial Modular.

(a) A California licensed dealer shall register with the department each new commercial modular sold, rented, leased, leased with an option to buy, or transferred by any other means by the dealer and not installed as a real property unit, within 10 days after the date of sale or lease. The application for registration shall meet the requirements of this section.

(b) The dealer shall complete and submit to the department a form HCD 480.2, Dealer Report of Sale or Lease, New Commercial Modular, which meets the requirements of Section 5575.

(c) The dealer shall submit an original copy of form HCD 483.0, the MCO, which meets the requirements of Section 5560, completed to reflect the release of security interest in the commercial modular by the inventory creditor or lienholder. The inventory creditor or lienholder shall release its security interest by signing where designated on the form. In lieu of the release by the inventory creditor, one of the following may be submitted:

(1) a written acknowledgment from the inventory creditor which meets the requirements of subsection 5581(a)(2), indicating that its security interest in the unit described on the MCO has been satisfied; or

(2) a statement of conditional lien release which meets the requirements of subsection 5581(a)(3).

(d) For each legal owner and junior lienholder to be recorded, the dealer shall submit the information about the legal owner and junior lienholder required by the dealer report of sale submitted pursuant to subdivision 5521(b).

(e) The dealer shall also submit the following fees:

(1) all fees and penalties due and payable pursuant to Sections 18114, 18115, and 18116 of the Health and Safety Code;

(2) for each legal owner and junior lienholder to be recorded, the lien registration service fee required by subsection 5660(m);

(3) administrative service fees, if applicable, as specified in Section 18123.5 of the Health and Safety Code; and

(4) the dealer report of sale filing fee, as required by subsection 5040(j), Title 25, Division 1, Chapter 4.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18001.8, 18075.5, 18080.5, 18085, 18114, 18115, 18116 and 18123.5, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. Change without regulatory effect amending section heading, subsections (a), (b) and (c) and NOTE filed 7–6–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 27).

§ 5522. Registration of a New Manufactured Home, Multi–Unit Manufactured Housing, or Commercial Coach When the Dealer Has Gone out of Business.

(a) If a dealer goes out of business before completing the registration of a new manufactured home, multi–unit manufactured housing, or commercial coach transferred by the dealer and not installed as a real property unit, the transferee, or if escrow was opened pursuant to Section 18035 of the Health and Safety Code, the escrow agent, shall assume responsibility for the registration process as required by this section.

(b) The transferee or, if escrow was opened pursuant to Section 18035 of the Health and Safety Code, the escrow company, shall comply with the dealer requirements of Section 5520 for a new manufactured home or multi–unit manufactured housing and with the dealer requirements of Section 5521 for a new commercial coach, with the following exceptions:

(1) In lieu of the dealer report of sale forms required by subsection 5520(b) and 5521(b), the following shall be submitted:

(A) a registration information document as required by Section 5541;

(B) documents that reflect the purchase of the manufactured home, multi–unit manufactured housing, or commercial coach by the transferee from the dealer, which may include the sales contract, purchase order, canceled checks, or invoices; and

(c) a statement signed under penalty of perjury by the transferee that identifies the unit as a manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach, includes the applicable unit identifying information, and:

1. explains why the sales contract or purchase order cannot be provided; and

2. states whether the original purchase was financed by a lender and, if so, the name, address and telephone number of the lender.

(2) If the original MCO required by subsections 5520(c) or 5521(c) is not available, the transferee or, if escrow was opened pursuant to Section 18035 of the Health and Safety Code, the escrow agent, shall:

(A) obtain and submit a replacement MCO from the manufacturer as provided in Section 5561, completed to reflect the release of security interest in the unit by the inventory creditor or lienholder as required by subsections 5520(c) or 5521(c); or

(B) obtain and submit a replacement MCO from the manufacturer as provided in Section 5561, and, in lieu of the release of security interest in the unit on that replacement MCO, one of inventory creditor release alternatives described in subsection 5520(c) or 5521(c); or

(C) if a replacement MCO cannot be provided, post a bond and accompanying statement pursuant to the requirements of Section 5547.

(3) Neither the transferee nor any applicable escrow company shall submit any administrative service fees as described in Section 18123.5 of the Health and Safety Code or any penalties required by Sections 18114, 18115, and 18116 of the Health and Safety Code because of the dealer's failure to complete the registration of the unit.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18035, 18075.5, 18085, 18114, 18115, 18116 and 18123.5, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5523. Registration of a Truck Camper Not Previously Registered in California.

(a) The owner(s) of a truck camper not previously registered with the department or DMV may choose to register the truck camper with the department. Any such application for registration shall meet the requirements of this section.

(b) A truck camper must have a serial number before it can be registered with the department. If a serial number has not been issued by the manufacturer of the truck camper, the owner(s) of the truck camper may obtain a serial number from the department as follows:

(1) The owner(s) shall provide the following information about the truck camper to the department, by telephone or in writing:

(A) the decal or license number;

(B) the manufacturer's name;

(C) the make or model;

(D) the year of manufacture; and

(E) the width and length, in inches.

(2) The department shall issue to the owner(s) a written record of the serial number assigned.

(3) The owner(s) shall either stamp, burn, or otherwise permanently inscribe the serial number on the interior of the truck camper, in a location under the dining seat area, and certify to the department, in a statement signed under penalty of perjury, that the serial number issued by the department has been so inscribed.

(c) An application for registration of a truck camper manufactured on or after January 1, 1986, by a manufacturer licensed by the department, shall include either:

(1) an original certificate of origin issued by the manufacturer of the truck camper pursuant to Health and Safety Code Section 18093.5; or

(2) if a certificate of origin issued pursuant to Health and Safety Code Section 18093.5 cannot be provided, a bond or undertaking and statement pursuant to the requirements of Section 5547 may be submitted.

(d) An application for registration of a truck camper other than a truck camper manufactured on or after January 1, 1986, by a manufacturer licensed by the department, shall include one of the following:

(1) a titling document issued by another state and, if the owner(s) applying for registration with the department is not the owner(s) reflected on that titling document, endorsements as follows:

(A) the signature of the appropriate recorded registered owner(s) on the designated line(s) or in the designated area for release of the registered owner(s); or in lieu of the release, the following may be submitted:

1. documents that reflect the purchase of the truck camper by the owner(s) applying for registration with the department from the owner(s) reflected on the other state's titling document, which may include the sales contract, purchase order, canceled checks or invoices;

(B) the signature of any recorded lienholders on the designated line(s) or in the designated area for release or retention of a lienholder(s), if applicable;

(C) the signature of the new registered owner(s) on the designation line(s) or in the designated area for acknowledging ownership of the truck camper; and

(D) the signature of any new lienholders on the designation line(s) or in the designated area for the addition of new lienholders; or

(2) documents that reflect the purchase of the truck camper by the owner(s) applying for registration with the department, which may include the sales contract, purchase order, canceled checks or invoices; or

(3) a bond or undertaking and statement that complies with the requirements of Section 5547.

(e) All applications for registration of a truck camper shall include:

(1) a registration information document as required by Section 5541;

(2) a statement by the owner(s), signed under penalty of perjury, that includes:

(A) how and from whom the truck camper was acquired;

(B) whether any titles or registration documents have been issued for the truck camper by a state other than California, and, if so, if they are not being submitted with the application for registration, the disposition of those registration documents or titles (i.e., lost, stolen, etc.); and

(f) The owner(s) shall pay the registration fee and, if applicable, the registration penalty, required by Section 18114 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18075.7, 18085, 18087 and 18093.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5524. Registration of a Floating Home Not Previously Registered in California.

(a) A floating home subject to real property taxation pursuant to Section 229 of the Revenue and Taxation Code, which has not been registered with the department or DMV, shall be registered with the department within 20 days after the date of sale, resale or other transfer of title. The application for registration shall meet the requirements of this section.

(b) A floating home must have a serial number before it can be registered with the department. If a serial number has not been issued by the manufacturer of the floating home, the owner(s) of the floating home may obtain a serial number from the department as follows:

(1) The owner(s) shall provide the following information about the floating home to the department, by telephone or in writing:

(A) the decal, license or CF number, if any;

(B) the manufacturer's name;

(C) the make or model;

(D) the year of manufacture; and

(E) the width and length, in inches.

(2) The department shall issue to the owner(s) a written record of the serial number assigned.

(3) The owner(s) shall permanently affix the serial number to the floating home in an area bounded by four feet above or below and to the left of the threshold for the primary egress to the floating home. If that area is metal, the serial number shall be dye stamped in characters 3/4 of an inch or larger. If that area is wood the numbers may be carved, stamped, burned or otherwise permanently affixed.

(4) The owner(s) shall certify to the department, in a statement signed under penalty of perjury, that the serial number issued by the department has been permanently affixed as required by subsection (b)(3).

(c) The application for registration of a floating home shall include:

(1) the registration information document as required by Section 5541;

(2) one of the following:

(A) a titling document issued by another state and, if the owner(s) applying for registration with the department are not the owner(s) reflected on that titling document, endorsement as follows:

1. the signature of the appropriate recorded registered owner(s) on the designated line(s) or in the designated area for release of the registered owner(s); or in lieu of the release, the following may be submitted:

(A) documents that reflect the purchase of the floating home by the owner(s) applying for registration with the department from the owner(s) reflected on the other state's titling document, which may include the sales contract, purchase order, canceled checks or invoices;

2. the signature of any recorded lienholders on the designated line(s) or in the designated area for release or retention of a lienholder(s), if applicable;

3. the signature of the new registered owner(s) on the designation line(s) or in the designated area for acknowledging ownership of the floating home; and

4. the signature of any new lienholders on the designation line(s) or in the designated area for the addition of new lienholders.

(B) documents that reflect the purchase of the floating home by the owner(s) applying for registration with the department, which may include the sales contract, purchase order, canceled checks, or invoices; or

(C) documents, which may include purchase orders, canceled checks, or invoices, that reflect that the owner(s) applying for registration with the department purchased component parts and assembled the floating home; or

(D) a bond or undertaking and statement that complies with the requirements of Section 5547.

(3) one of the following documents issued by the city or county building department with jurisdiction over the area where the floating home is located:

(A) a copy of a floating home occupancy permit; or

(B) a letter stating that the issuance of a occupancy permit is not required;

(4) a tax clearance certificate or a conditional tax clearance certificate issued by the tax collector of the county where the floating home is located, as required by Section 5547.1;

(5) a statement signed under penalty of perjury by the owner(s) that includes the applicable unit identifying information and states:

(A) that the floating home is designed and built to be used or is modified to be used as a stationary waterborne residential dwelling; has no mode of power of its own; is dependent for utilities upon a continuous utility linkage to a source originating on shore; and has a permanent continuous hookup to a shoreline sewage system pursuant to Section 18075.55 of the Health and Safety Code; and

(B) whether any title has been issued for the floating home, and, if so, what the license or decal number for that title is and, if the title is not being submitted with the application for registration, the disposition of the title (i.e., lost, stolen, etc.);

(C) whether the floating home was ever registered with DMV;

(d) The owner(s) shall pay the following fees to the department:

(1) the registration fee required by Section 18114(c) of the Health and Safety Code and, if applicable, a penalty, required by Section 18114(e) of the Health and Safety Code.

(2) For each legal owner or junior lienholder being recorded, the lien registration service fee required by subsection 5660(m).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18075.55, 18085, 18087 and 18114, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5525. Registration of Manufactured Homes, Mobilehomes, Multi–Unit Manufactured Housing, and Commercial Coaches Manufactured and Purchased in Another State and Brought into California Prior to Registration in Another State.

(a) A manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach which is manufactured and purchased in another state, but which has not been registered or titled in another state, and is brought into California and not installed as a real property unit, shall be registered with this department within 20 days after the date of entry into California. The application for registration shall meet the requirements of this section.

(b) The application for registration shall include (1) or (2) and (3):

(1) the original certificate of origin issued by the out–of–state manufacturer, which has been:

(A) signed by the manufacturer or selling dealer, releasing any interest they may have in the unit to the owner(s) applying for registration with the department, and

(B) properly endorsed to reflect the release of security interest in the unit by the inventory creditor or lienholder, or, in lieu of this release by the inventory creditor or lienholder on the certificate or origin, one of the following may be submitted:

1. a written acknowledgment from the inventory creditor which meets the requirements of subsection 5581(a)(2), indicating that its security interest in the unit described on the certificate or origin has been satisfied; or

2. a statement of conditional lien release which meets the requirements of subsection 5581(a)(3); or

(2) documents that reflect the purchase of the unit by the owner(s) applying for registration with the department, which may include the sales contract, purchase order, canceled checks, or invoices; and

(3) a bond and accompanying statement pursuant to the requirements of Section 5547.

(c) The application for registration shall also include:

(1) a registration information document as required by Section 5541; and

(2) the applicable requirements of Sections 5580 or 5584 to add any lienholder identified to the department.

(d) The owner(s) shall pay the following fees and penalties to the department:

(1) to register a manufactured home, mobilehome or multi–unit manufactured housing subject to local property taxation

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114, and 18114.1, of the Health and Safety Code; or

(2) to register a manufactured home, mobilehome, or multi–unit manufactured housing not subject to local property taxation

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code; or

(3) to register a commercial coach; all fees and penalties due and payable pursuant to Sections 18114, 18115, and 18116 of the Health and Safety Code;

(4) For each legal owner or junior lienholder being recorded, the lien registration service fee required by subsection 5660(m);

(5) use tax as specified in Section 18123 of the Health and Safety Code, unless exempt therefrom pursuant to Sections 5667 or 5668.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18070.1(c), 18075.5(c), 18085, 18114, 18114.1, 18115, 18116 and 18123, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).
2. Amendment filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5525.1. Registration of Used Manufactured Homes, Used Mobilehomes, Used Multi–Unit Manufactured Housing and Used Commercial Coaches Registered and Titled in Another State and Brought into California.

(a) A used manufactured home, used mobilehome, used multi–unit manufactured housing, or used commercial coach registered in another state, brought into California, and not installed as a real property unit, shall be registered with this department within 20 days after the date of entry into California. The application for registration shall meet the requirements of this section.

(b) The application for registration shall include either:

(1) a titling document issued by another state and, if the owner(s) applying for registration with the department is not the owner(s) reflected on that titling document, endorsements as follows:

(A) the signature of the appropriate recorded registered owners on the designated line(s) or in the designated area for release of the registered owner(s); or in lieu of the release, the following may be submitted:

1. documents that reflect the purchase of the unit by the owner(s) applying for registration with the department from the owner(s) reflected on the other state's titling document, which may include the sales contract, purchase order, canceled checks or invoices;

(B) the signature of any recorded lienholders on the designated line(s) or in the designated area for release or retention of a lienholder(s), if applicable; or if lieu of the required signature, the following may be submitted:

1. a written lien release indicating the lienholder has released interest in the unit.

2. a written statement indicating the lienholder has retained interest in the unit. The written statement must identify the type of unit as a manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach; must contain the decal or license plate number(s); must indicate the trade name, and each serial number.

(C) the signature of the new registered owner(s) on the designation line(s) or in the designated area for acknowledging ownership of the unit; and

(D) the signature of any new lienholders on the designation line(s) or in the designated area for the addition of new lienholders.

(2) documents that reflect the purchase of the unit by the owner(s) applying for registration with the department, which may include the sales contract, purchase order, canceled checks or invoices, and a bond or undertaking and statement that complies with the requirements of Section 5547.

(c) The application for registration must also include:

(1) a registration information document as required by Section 5541.

(2) the other state's license plates and/or year sticker equivalent, if any, or one of the following:

(A) a copy of the permit issued by the other state's regulatory agency allowing a transporter to move the manufactured home, mobilehome, multi-unit manufactured housing, or commercial coach to California;

(B) a copy of the transporter's bill of lading, which provides applicable unit identifying information except the license plate or decal number of the unit, and which indicates that no license plate was on the manufactured home, mobilehome, multi-unit manufactured housing, or commercial coach; or

(C) a statement signed by the owner(s) under penalty of perjury, that identifies the unit as a manufactured home, mobilehome, multi-unit manufactured housing, or commercial coach, includes the applicable unit identifying information, and either certifies that the license plate(s) is lost, or there was no license plate(s) on the unit;

(3) if the unit is a manufactured home, mobilehome, or multi-unit manufactured housing subject to local property taxation, a tax clearance certificate or a conditional tax clearance certificate issued by the tax collector of the county where the unit is located, as required by Section 5547.1;

(d) The owner(s) shall pay the following fees and penalties to the department:

(1) to register a manufactured home, mobilehome or multi-unit manufactured housing subject to local property taxation:

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114 and 18114.1 of the Health and Safety Code; or

(2) to register a manufactured home, mobilehome, or multi-unit manufactured housing not subject to local property taxation

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code; or

(3) to register a commercial coach: all fees and penalties due and payable pursuant to Sections 18114, 18115, and 18116, of the Health and Safety Code; and

(4) transfer fee as specified in subsection 5660(b) and, if applicable, transfer fee penalty as specified in 5660(c);

(5) the lien registration service fee as specified in subsection 5660(m), if applicable.

(6) use tax as specified in Section 18123 of the Health and Safety Code, unless exempt therefrom pursuant to Sections 5667 or 5668.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18070.1(c), 18075.5(c), 18087, 18087.5, 18088, 18088.5, 18114, 18114.1, 18115, 18116, 18117.5 and 18123, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).
2. Amendment filed 4-1-98; operative 4-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5525.2. Registration of Used Manufactured Homes, Mobilehomes, Multi-Unit Manufactured Housing, and Commercial Coaches Registered in Another State and Brought into California When the Out-of-State Certificate of Title Cannot Be Provided.

(a) The department shall not issue a certificate of title for a used manufactured home, mobilehome, multi-unit manufactured housing, or commercial coach registered in another state which is brought into California and not installed as a real property unit unless the owner(s) complies with the requirements of Section 5525.1. However, the department shall register and issue a registration card for a used manufactured home, mobilehome, multi-unit manufactured housing, or commercial coach registered in another state and brought into California and not installed as a real property unit, if the requirements of this section are met.

(b) The owner(s) must apply to the department for registration of the unit by providing:

(1) a registration information document as required by Section 5541;

(2) a registration card or record of ownership issued by a regulatory agency in another state which identifies the owner(s) seeking registration with the department as the owner(s) of the unit for which registration is sought; and

(3) the other state's license plates and/or year sticker equivalent, if any, or one of the following:

(A) a copy of the permit issued by the other state's regulatory agency allowing a transporter to move the manufactured home, mobilehome, multi-unit manufactured housing, or commercial coach to California; or

(B) a copy of the transporter's bill of lading, which provides applicable unit identifying information except the license plate or decal number of the unit, and which indicates that no license plate was on the manufactured home, mobilehome, multi-unit manufactured housing or commercial coach; or

(C) a statement by the owner(s) signed under penalty of perjury, that identifies the unit as a manufactured home, mobilehome, multi-unit manufactured housing, or commercial coach, includes the applicable unit identifying information, and either certifies that the license plate(s) is lost, or there was no license plate(s) on the unit.

(c) The owner(s) shall pay the following fees and penalties to the department:

(1) to register a manufactured home, mobilehome or multi-unit manufactured housing subject to local property taxation:

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114 and 18114.1 of the Health and Safety Code; or

(2) to register a manufactured home, mobilehome, or multi-unit manufactured housing not subject to local property taxation:

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code; or

(3) to register a commercial coach: all fees and penalties due and payable pursuant to Sections 18114, 18115, and 18116, of the Health and Safety Code.

(d) The department shall issue a titling document for a unit registered with the department pursuant to this section at any time the owner(s) meets the requirements of Section 5525.1.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18070.1(c), 18089, 18114, 18114.1, 18115 and 18116, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).
2. Amendment filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5526. Registration of Government Surplus Units.

(a) A manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach previously owned by the federal government and transferred by the federal government to an entity other than an agency or department of the federal government, shall be registered with the department within 20 days after the date of sale or transfer by the federal government. The application for registration shall meet the requirements of this section.

(b) The application for registration shall include:

(1) a registration information document as required by Section 5541;

(2) the form then in use by the U.S. government to release its interest in a manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach (as of the date of these regulations, Standard Form 97, Certificate of Release of Motor Vehicle);

(3) if the unit is a manufactured home, mobilehome or multi–unit manufactured housing subject to local property taxation, a tax clearance certificate or a conditional tax clearance certificate issued by the tax collector of the county where the unit is located, as required by Section 5547.1;

(4) the necessary statements required to add any lienholder identified to the department in a statement or information document provided by the owner(s), as specified in Sections 5580 (for legal owners) or 5584 (for junior lienholders).

(c) The owner(s) shall pay the following fees and penalties to the department:

(1) to register a manufactured home, mobilehome or multi–unit manufactured housing subject to local property taxation:

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114 and 18114.1 of the Health and Safety Code; or

(2) to register a manufactured home, mobilehome, or multi–unit manufactured housing not subject to local property taxation:

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code; or

(3) to register a commercial coach: all fees and penalties due and payable pursuant to Sections 18114, 18115, and 18116, of the Health and Safety Code.

(4) transfer fee as specified in subsection 5660(b) and, if applicable, transfer fee penalty as specified in subsection 5660(c);

(5) lien registration service fee as specified in subsection 5660(m), if applicable; and

(6) use tax as specified in Section 18123 of the Health and Safety Code, unless exempt therefrom pursuant to Sections 5667 or 5668.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18070.1(c), 18075.5, 18085, 18114, 18114.1, 18115, 18116, 18117.5 and 18123, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).
2. Amendment filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5527. Registration of a Commercial Coach Previously Under the Jurisdiction of the Division of the State Architect.

(a) When a commercial coach previously located on public school property under the jurisdiction of the Division of the State Architect is removed from public school property, the commercial coach shall be subject to inspection by, and registration with, the department as a commercial coach within 20 days after the date the unit is removed from the public school property. The application for registration shall meet the requirements of this section.

(b) An application for registration shall include:

(1) a registration information document as required by Section 5541;

(2) a bill of sale from the school district releasing interest to the owner(s) applying for registration with the department;

(3) if the unit does not bear HCD insignia as required in Section 5544, the application shall include:

(A) a copy of an inspection report issued by the department which indicates the HCD insignia numbers issued for the unit; or

(B) a copy of the letter sent by the department to the applicant with the new insignia; and

(4) the necessary statements required to add any lienholder identified to the department in a statement or information document provided by the owner(s), as specified in Sections 5580 (for legal owners) or 5584 (for junior lienholders).

(c) The applicant shall pay the following fees and penalties to the department:

(1) all fees and penalties due and payable pursuant to Sections 18114, 18115, and 18116 of the Health and Safety Code; and

(2) annual renewal of registration fees, payable pursuant to Section 18114, shall commence the last day of the month in which the unit was removed from the public school property unless the month is December, in which case the day shall be the 30th.

(3) transfer fee as specified in subsection 5660(b) and, if applicable, transfer fee penalty as specified in subsection 5660(c);

(4) lien registration service fee as specified in subsection 5660(m); and

(5) use tax as specified in Section 18123 of the Health and Safety Code, unless exempt therefrom pursuant to Sections 5667 or 5668.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18026, 18075.5, 18114, 18114.1, 18115, 18116, 18117.5 and 18123, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 3. Registration Changes Upon Transfer of Units Registered in California

§ 5530. Changes to Registration of Used Manufactured Homes Mobilehomes, Multi–Unit Manufactured Housing or Commercial Modulars Registered with the Department or DMV—Dealer Participation Transfers.

(a) A dealer shall apply for an amendment to the department or DMV registration, as applicable, for each used manufactured home, mobilehome, multi–unit manufactured housing or commercial modular sold, leased with an option to buy, or transferred by any other means by the dealer, and not installed as a real property unit, within 10 days after the date of sale or lease. Transfers of such a unit to be installed as a real property unit are subject to reporting pursuant to Section 5611. The application for registration shall be submitted to the department, and shall meet the requirements of this Section.

(b) The application for registration shall include:

(1) a form HCD 480.3, a Dealer Report of Sale or Lease, Used Manufactured Home, Used Mobilehome, Used Multi–Unit Manufactured Housing, or Used Commercial Modular which meets the requirements of Section 5575, and the report of sale fees and, if applicable and not avoided pursuant to Section 5530.1, penalties and administrative service fees as required by Section 5575;

(2) unless the registration card for the unit is in the possession of the department pursuant to Section 5546.1, either:

(A) the registration card for the unit, or

(B) an application for a duplicate registration card as required by Section 5551;

(3) if a notice of escrow opening was required by Section 5571, a notification of escrow closing that meets the requirements of Section 5573;

(4) if the unit is a manufactured home, mobilehome or multi-unit manufactured housing subject to local property taxation, a tax clearance certificate or a conditional tax clearance certificate issued by the tax collector of the county where the unit is located, as required by Section 5547.1;

(5) for each legal owner and junior lienholder to be added to the unit's registration, the dealer shall submit legal owner identifying information and junior lienholder identifying information on the report of sale submitted pursuant to subsection 5530(b)(1); and

(6) for each legal owner or junior lienholder to be added to or removed from the unit's registration, the necessary title endorsements, statements or bonds and fees required by Article 8.

(c) The application for registration shall also include either:

(1) one of the following titling documents for the unit, endorsed to release the registered owner and report the new registered owner, or one of the alternatives to such endorsements, as required by Section 5533:

(A) a certificate of title;

(B) an ownership certificate, certificate of ownership or certificate of title issued by DMV; or

(C) an application for duplicate certificate of title which meets the requirements of Section 5550; or

(2) documents that reflect the transfer of the unit to the transferees, which may include the sales contract, purchase order, canceled checks or invoices, and a bond or undertaking and statement that comply with the requirements of Section 5547.

(d) The dealer shall also submit the following:

(1) to register a manufactured home, mobilehome or multi-unit manufactured housing subject to local property taxation:

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114 and 18114.1 of the Health and Safety Code; or

(2) to register a manufactured home, mobilehome, or multi-unit manufactured housing not subject to local property taxation:

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code; or

(3) to register a commercial modular: all fees and penalties due and payable pursuant to Sections 18114, 18115, and 18116 of the Health and Safety Code; and

(4) to register any unit: transfer fee as specified in subsection 5660(b) and, if applicable, transfer fee penalty as specified in subsection 5660(c);

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18070.1(c), 18075.5, 18080.5, 18085, 18100.5, 18102.3, 18103, 18114, 18114.1, 18115, 18116, 18117.5 and 18123.5, Health and Safety Code.

HISTORY

1. New article 3 (sections 5530–5533) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).
2. Amendment filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).
3. Change without regulatory effect amending section heading and subsections (a), (b)(1), (c)(1)(C) and (d)(3) filed 7–6–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 27).

§ 5530.1. Avoidance of Penalties and Administrative Service Fees—Commercial Coach Registration When the Certificate of Title Is in the Department's Possession.

(a) A dealer shall not be required to pay penalties pursuant to Health and Safety Code Sections 18114, 18115, 18116 or Section 5660(c), or administrative service fees pursuant to Health and Safety Code Section 18123.5, during any time the certificate of title for a commercial coach sold, leased with an option to buy or otherwise transferred by that dealer is in the possession of the department and the dealer complies with the requirements of this Section.

(b) The dealer shall submit the following to the department within 10 days after the date of sale or lease:

(1) the report of sale and fees (but not the penalties or administrative service fees) required by subsection 5530(b); and

(2) the fees (but not the penalties) required by subsection 5530(d).

(c) Within 10 days after receipt of the certificate of title from the department, the dealer shall:

(1) perform all of the requirements of Section 5530 not performed pursuant to Section 5530.1(b);

(2) submit to the department either:

(A) a copy of the acknowledgment of receipt of fees sent to the dealer by the department which evidences the department's receipt of the fees submitted by the dealer for the commercial coach pursuant to subsection 5530.1(b); or

(B) a canceled check endorsed by the department to reflect the department's receipt of the fees submitted by the dealer for the commercial coach pursuant to subsection 5530.1(b).; and

(3) submit to the department a statement signed under penalty of perjury by the dealer, which includes unit identifying information and sets forth the date of receipt of the certificate of title by the dealer.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18114, 18114.1, 18115, 18116 and 18123.5, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5531. Changes to Registration of Used Units Registered with the Department or DMV—Dealer Non–Participation Transfers.

(a) For each used unit sold, leased with an option to buy, or transferred by any other means, and not installed as a real property unit, other than by a dealer (including transfers by a dealer that has gone out of business prior to completing the registration amendment process), the transferee shall apply for an amendment to the department or DMV registration for that unit within 20 days after the date of sale or lease. The application for registration shall be submitted to the department, and shall meet the requirements of this Section.

(b) The application for registration shall include either:

(1) one of the following titling documents for the unit, endorsed to release the registered owner and report the new registered owner, or one of the alternatives to such endorsements, as required by Section 5533:

1. a certificate of title;

2. an ownership certificate, certificate of ownership or certificate of title issued by DMV; or

3. an application for duplicate certificate of title as described in Section 5550; or

(2) documents that reflect the transfer of the unit to the transferees, which may include the sales contract, purchase order, canceled checks or invoices, and a bond or undertaking and statement that comply with the requirements of Section 5547.

(c) The application for registration shall also include:

(1) unless the registration card is in the possession of the department pursuant to Section 5546.1, either:

(A) the registration card for the unit or

(B) an application for a duplicate registration card as required by Section 5551;

(2) if a notice of escrow opening was required by Section 5571, a notification of escrow closing that meets the requirements of Section 5573;

(3) for each legal owner or junior lienholder to be added to or removed from the unit's registration, the necessary title endorsements, statements or bonds and fees required by Article 8; and

(4) if the unit is a manufactured home, mobilehome or multi-unit manufactured housing subject to local property taxation, a tax clearance certificate or a conditional tax clearance certificate issued by the tax collector of the county where the unit is located, as required by Section 5547.1.

(d) The transferee shall also submit the following fees:

(1) to register a manufactured home, mobilehome or multi-unit manufactured housing subject to local property taxation:

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114, and 18114.1 of the Health and Safety Code; or

(2) to register a manufactured home, mobilehome, or multi-unit manufactured housing not subject to local property taxation:

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code; or

(3) to register a commercial coach: all fees and penalties due and payable pursuant to Sections 18114, 18115, and 18116 of the Health and Safety Code;

(4) to register a truck camper or floating home: all fees and penalties due and payable pursuant to Section 18114 of the Health and Safety Code;

(5) to register any unit other than a floating home: the transfer fee and transfer penalties due and payable pursuant to subsection 5660(a);

(6) provided that the transferee shall not be responsible for any penalties due as a result of a dealer having gone out of business.

(e) The transferee shall pay use tax, unless exempt therefrom pursuant to Section 5667 or Section 5668.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18070.1(c), 18075.55, 18075.7, 18085, 18103, 18114, 18114.1, 18115, 18116, 18116.5, and 18123.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).
2. Amendment filed 4-1-98; operative 4-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5532. Report of Transfer.

(a) Following any sale, lease with an option to buy, or transfer by any other means of a used unit registered with the department or DMV, the transferor(s) of the used unit shall, within 20 days after the date of sale or lease, complete and forward to the department a notice of the sale or transfer.

(b) The notice of sale or transfer shall be signed under penalty of perjury by the transferor(s), and shall contain the following information:

(1) the applicable unit identifying information;

(2) the name and address of the transferee(s);

(3) a statement that:

(A) the transferor(s) is the lawful owner(s) of the unit, has the right to sell the unit, guarantees and will defend the title to the unit against claims and demands arising prior to the dated date of the statement;

(B) the unit is free of all liens and encumbrances, except for the lien(s) of the lienholder(s) identified in the statement; and

(C) the transferor(s) transferred the unit to the transferee(s) on the date and for the sum specified in the statement.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18100.5(a), Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5533. Titling Document Endorsements and Alternatives.

(a) The applicable titling document listed in subsection 5530(c)(1) or 5531(b)(1) shall be endorsed by each registered owner identified thereon, or by an appropriate co-owner or heir pursuant to Sections 5542 and 5542.1, in the location established for signatures of releasing registered owner(s). In lieu of these endorsements, the department shall accept:

(1) the original notice of sale or transfer of the unit to the transferee(s), received by the department pursuant to Section 5532; or

(2) an original bill of sale, bearing the applicable unit identifying information, and signed under penalty of perjury by each registered owner, or by an appropriate co-owner or heir pursuant to Sections 5542, 5542.1, and 5542.2 which evidences release of the interest of each such registered owner to the transferee(s).

(b) The applicable titling document listed in subsection 5530(c)(1) or 5531(b)(1) must be endorsed by each transferee seeking to be registered with the department as a registered owner, in the location established for signatures of new registered owner(s), unless the transferee(s) submit to the department a registration information document as required by Section 5542.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18100.5(a) and 18102.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 4. Registration Requirements

§ 5540. Recording a Registered Owner, Legal Owner or Junior Lienholder Interest in a Unit.

(a) The registered owner, legal owner or junior lienholder interest in a unit shall be recorded in one of the following manners:

(1) individual,

(2) trustee,

(3) company,

(4) estate,

(5) conservator,

(6) guardian,

(7) emancipated minor,

(8) lessor/lessee, or

(9) a co-ownership consisting of any of the above, except to the extent an individual has named a TOD beneficiary.

(b) The registered ownership interest in a unit recorded in a single individual may also reflect a "transfer on death beneficiary" or "TOD" beneficiary". In order to name a TOD beneficiary, the application must contain, in addition to the information required for registration in the name of an individual registered owner, as set forth in subsection 5540(c)(1), a statement requesting the inclusion of a TOD beneficiary, signed under penalty of perjury by the applicant, that includes the unit identifying information and the name of the party to be added to the record as TOD beneficiary.

(c) The applicant shall comply with the following requirements, for the form of registered owner, legal owner, or junior lienholder registration requested.

(1) "Individual." The application shall contain the applicant's true name. The true name shall not include the use of any title, unless the applicant certifies that the title is part of his or her true name, and provides a statement signed under penalty of perjury which includes,

(A). the unit identifying information, and

(B). a statement certifying that any title shown as part of the true name is commonly used as part of the individual's name, or

(C) a statement certifying that the use of individual name with the abbreviation "AKA" (meaning "also known as") followed by the other known name, is commonly used as part of the individuals name.

(2) "Trustee." The application shall contain a statement, signed under penalty of perjury, by each trustee, providing the following:

(A) the unit identifying information;

(B) the name and date of the trust agreement;

(C) the name of the trustor(s);

(D) the name of the trustee(s);

(E) acknowledgment that the trustee(s) will notify the department immediately upon any change to the trust agreement identified by submitting a statement that contains the items as specified in subsections (2)(A)-(E).

(3) "Company." The application shall contain the signature of an officer or authorized agent of the company and the company name, which may include the designation "doing business as" (DBA), "limited liability company" (LLC), "limited liability partnership" (LLP), or "limited partnership."

(4) "Estate." The application shall contain a copy of the Letters Testamentary or Letters of Administration issued by a Superior Court, which contains an endorsement or stamp by the clerk of the court indicating the date the document was filed by the court.

(5) "Conservator." The application shall contain a copy of the Letters of Conservatorship issued by a Superior Court, which contains an endorsement or stamp by the clerk of the court indicating the date the document was filed by the court.

(6) "Guardian." The application shall contain either:

(A) a copy of the Letters of Guardianship issued by a Superior Court, which contains an endorsement or stamp by the clerk of the court indicating the date the document was filed by the court, or (B) a statement, signed under penalty of perjury by a parent claiming sole guardianship of a minor, which shall include, at least unit identifying information; and a statement certifying that the parent is the sole guardian of the minor.

(7) "Emancipated Minor." The application shall contain:

(A) the emancipated minor's true name;

(B) a statement signed under penalty of perjury which shall include at least the following information:

1. the unit identifying information;

2. a statement certifying that the applicant is an emancipated minor, specifying the basis of his or her emancipation; and

3. if applicable, certifying that any title shown as part of the true name is commonly used as part of the individual's name or

4. if applicable, certifying the use of individual name with the abbreviation "AKA" (meaning "also known as") followed by the other known name, is commonly used as part of the individuals name, and

(C) evidence to support the basis of the applicant's emancipated status (e.g., a copy of his or her declaration of emancipation issued by a Superior Court which contains an endorsement or stamp by the clerk of the court indicating the date the document was filed by the court, evidence of his or her enlisted in the armed forces of the United States, etc.).

(8) "Lessor/Lessee." The application shall contain the applicable requirements specified in 5540(c) depending on whether the lessor or lessee is an individual, a company, an estate, etc.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080.1, 18080.2 and 18085, Health and Safety Code.

HISTORY

1. New article 4 (sections 5540–5549.4) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5540.1. Recording the Registered Owner, Legal Owner or Junior Lienholder as a Co–Ownership.

(a) When the registered owner, legal owner, or junior lienholder of a unit is one or more persons, the applicable interest shall be recorded as:

(1) two or more persons as "joint tenants with right of survivorship", or

(2) two or more persons as "tenants in common and", or

(3) two or more persons as "tenants in common or", or

(4) community property in the names of a husband and wife, or

(5) community property with right of survivorship in the names of the husband and wife.

(b) An application to record the registered ownership, legal ownership, or junior lienholder interest of a unit as co– owners shall include whichever of the following is required by Article 2, Article 3, or Article 8 of this Chapter for the type of application being submitted, with the desired type of co–ownership clearly written on:

(1) the titling document submitted with the application, or

(2) the registration information document as specified in subsection 5542(b) ; or

(3) the Dealer Report of Sale or Lease, New Manufactured Home, or Multi–unit Manufactured Housing form HCD 480.1 which meets the requirements of Section 5575, the Dealer Report of Sale or Lease, New Commercial Modular, form HCD 480.2, which meets the requirements of Section 5575, or the Dealer Report of Sale or Lease With an Option to Buy a Used Manufactured Home, Mobilehome, Multi–unit Manufactured Housing or Commercial Modular, form HCD 480.3, which meets the requirements of section 5575.

(c) The application for registration shall include a statement signed under penalty of perjury that includes the unit identifying information and a statement certifying the co–owner term desired.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080 and 18085, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).
2. Change without regulatory effect amending section filed 7–6–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 27).

§ 5541. Applications Requiring a Registration Information Document.

(a) A registration information document, meeting the requirements of subsection (b), shall be completed by the applicant and submitted as part of an application for registration for any unit for which a department issued title has not been issued unless the application:

(1) is submitted by a dealer and includes the appropriate dealer report of sale form, as described in Section 5575, properly completed;

(2) includes an application for a duplicate certificate of title, as described in Section 5550, properly completed.

(b) A registration information document shall be signed under penalty of perjury by all registered owners, and shall which contain the following information:

(1) the unit identifying information;

(2) the name of the manufacturer of the unit, if known;

(3) the manufacturer's ID number, if known;

(4) the model name or number, if known;

(5) the date the unit was manufactured, if known;

(6) the California dealer's license number, if a transaction by or through a California dealer;

(7) if the unit is new, the date the unit was transferred to the dealer from the manufacturer, if known;

(8) the date the unit was first sold new, if known;

(9) each HUD Label or HCD Insignia number affixed to the unit(s);

(10) if the unit is a manufactured home or multi–unit manufactured housing, the length and width, in inches, of each transportable section of the unit; and if the unit is a commercial coach, truck camper, or floating home, the length and width, in inches, of the unit.

(11) if the unit is a manufactured home or multi–unit manufactured housing, the weight of each transportable section of the unit, if known and, if the unit is a commercial coach, truck camper, or floating home, the weight of the unit, if known;

(12) the true name of each registered owner;

(13) the current mailing address of the registered owner(s);

(14) the future mailing address of the registered owner(s) if, different from the current mailing address;

(15) the location address of the unit

(16) the name and address of the legal owner, if any;

(17) the name and address of each junior lienholder if, any;

(18) if the unit entered California from another state:

(A) the state the unit was last registered in and the date the unit was last registered, if applicable;

(B) the month, day, and year the unit entered California;

(C) what state each applicant was a resident of when the unit was last registered;

(D) each applicant's current state of residence;

(E) the date each applicant became gainfully employed or entered into business in California, if applicable;

(F) any outstanding titles for the unit other than those accompanying the application;

(G) any lien(s) against the unit other than the lien(s) shown on the title document submitted with the application.

(19) if the application is for an original registration the applicant shall provide the following information:

(A) from whom the unit was purchased, a dealer, manufacturer, or an individual;

(B) the date of the sale;

(C) the date of delivery or installation of the unit;

(D) the purchase price of the unit excluding sales tax, finance charges, transportation and installation charges, and the cost of unattached accessories.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18085, 18086 and 18100.5, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5542. Endorsements by Co–Owners.

(a) When a registered owner, legal owner, or junior lienholder is required to endorse a document to transfer his, her, or its ownership in a unit, and that registered ownership, legal ownership, or junior lienholder interest is held by co–owners following requirements shall be applicable:

(1) For joint tenant co–owners, each co–owner shall sign unless one or more of the co–owners is deceased, in which case

(A) the application shall contain a copy of the certified death certificate for each the deceased co–owner, and all surviving co–owner(s) shall sign.

(B) If all recorded co–owners are deceased, the heir(s), administrator, or executor of the estate as determined by Section 5542.1, of the most recently deceased co–owner, shall sign.

(2) For co–owners registered as tenants–in–common with the names joined by "and", the following shall be applicable:

(A) To transfer full interest in the unit, each co–owner shall sign.

(B) To transfer the individual interest of one co–owner, the co–owner transferring his or her interest in the unit shall sign. The signatures of the other co–owners are not required.

(C) To transfer a deceased co–owner's interest in a unit, the heir(s), administrator, or executor of the estate, as determined by Section 5542.1 of the deceased co–owner, shall sign.

(3) For co–owners registered as tenants–in–common with the names joined by "or."

(A) any one of the co–owners shall sign.

(B) In the event all of the co–owners are deceased, either the heir(s), the administrator, or the executor of the estate, as determined by Section 5542.1, of the most recently deceased co–owner shall sign.

(4) For co–owners registered as husband and wife holding their interest as community property, the husband and wife shall each sign..

(A) To transfer a deceased co–owner's interest in a unit, the heir(s), administrator, or executor of the estate, as determined by Section 5542.1, of the deceased co–owner, shall sign.

(b) When a registered owner, legal owner, or junior lienholder is required to endorse a document to transfer his, her, or its interest in a unit registered with the department prior to January 1, 1985, and the unit's registration has not been subsequently changed to reflect co–owner terms described in subsection 5542(a), the following requirements shall be applicable:

(1) For interests held as tenants–in–common or as names separated by the word "or", the endorsement requirements provided in subsection 5542(a)(3) for tenants–in–common with the names joined by "or" shall apply

(2) For interests held as names joined by "and", the endorsement requirements provided in subsection 5542(a)(1) for joint tenants shall apply, with the exception that when one of the named owners dies, the heir, administrator, or executor of the estate, as determined by Section 5542.1, of the deceased named owner, shall sign for the deceased named owner.

(c) When the registered owner, legal owner, or junior lienholder is required to endorse a document to transfer his, her, or its interest in a unit *which was originally* registered by DMV and the unit's registration has not been subsequently changed to reflect co–owner terms described in subsection 5542(a) the following requirements shall be applicable:

(1) For interests held as names joined by the word "or", the endorsement requirements provided in subsection 5542(a)(3) for tenants–in–common with the names joined by "or" Shall apply.

(2) For interests held as names joined by the word "and", or by a slash (/) with no other conjunction or co–owner term, the endorsement requirements provided in subsection 5542(a)(1) for joint tenants shall apply with the exception that when one of the named owners dies, the heir, administrator, or executor of the estate, as determined by Section 5542.1, of the deceased named owner, shall sign for the deceased named.

(3) For interests held as names joined by "and/or" the endorsement requirements provided in subsection 5542(a)(3) for tenants–in–common with the names joined by "or" shall apply.

(4) For interest held as joint tenants the endorsement requirements provided in subsection 5542(a)(1) for joint tenants shall apply.

(5) For interests held as community property the endorsement requirements provided in subsection 5542(a)(4) for community property shall apply.

(d) Notwithstanding anything in Section 5541 to the contrary, when a registered owner is required to endorse a document to record a new legal owner or junior lienholder, each co–owner must sign as required in Sections 5581 and 5585. Therefore, when one of the co–owners is deceased, the application to record a new legal owner or junior lienholder shall also transfer the registered ownership of the unit from the deceased co–owner.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18075 and 18080, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5542.1. Endorsement for a Deceased Registered Owner, Legal Owner, or Junior Lienholder.

(a) In order for an heir or beneficiary pursuant to a decedent's will, other than a TOD beneficiary, to sign a document for a deceased registered owner, legal owner, or junior lienholder, the following shall apply:

(1) The application for registration shall include a copy of the death certificate of the deceased owner and the heir shall complete:

(A) his, her, or its statement, signed under penalty of perjury, which includes:

1. the unit identifying information;

2. the name of the deceased individual;

3. the date of death of that individual;

4. the place of death, city and state or province, and country;

5. a statement that said deceased left no other property necessitating probate and no probate proceeding is now being or has been conducted in this state for the decedent's estate; that said unit has not been by will bequeathed to anyone else; either

A. that the decedent left no will and the declarant(s) is(are) entitled to the above–described unit as the sole heir (or heirs) pursuant to 6401 and 6402 of the California Probate Code, or

B. that the decedent left a will and the declarant(s) are entitled to the above–described unit as the sole beneficiary (or beneficiaries) under the decedent's last will; that no one has a right to the unit that is superior to that of the declarant(s); that forty (40) days have elapsed since the decedent's death; and that there are no unsecured creditors of the deceased whose claims remain unsatisfied or:

(B) his, her, or its statement, signed under penalty of perjury, which includes the information specified in subsections (A)1. through (A) 4., above, and a copy of each of the following documents, each of which shall contain an endorsement or stamp by the clerk of a Superior Court indicating the date the document was filed by that court:

1. an order by the Superior Court settling the final account and final distribution of the decedent's estate, which contains a description of the unit and of the declarant(s) sufficient for the department to determine that the declarant(s) is(are) the party(ies) to whom the decedent's interest in the unit was settled;

2. a receipt evidencing the declarants' (s's) receipt of the unit or an order of the Superior Court excusing the filing of the receipts by the decedent's heirs and beneficiaries; and

3. an order of the Superior Court discharging the decedent's personal representative (administrator, executor, etc.) from liability.

(2) An endorsement by an heir or beneficiary shall consist of the printed or written name of the deceased registered owner followed by the signature of each heir or beneficiary.

(3) If the signatures are required to transfer a registered owner's interest in a unit, no TOD beneficiary shall have been designated by the decedent registered owner.

(b) For the TOD Beneficiary to transfer ownership to him or herself after the death of the registered owner:

(1) The TOD beneficiary shall submit, with the application for registration, a copy of the death certificate of the deceased registered owner, and

(2) and a statement, signed under penalty of perjury, which contains the following information:

(A) the unit identifying information;

(B) the name of the party to whom the unit is to be registered ;and

(C) the date the registered owner of the unit died and the place of death.

(3) An endorsement by a TOD beneficiary shall consist of the printed or written name of the deceased registered owner followed by the signature of the TOD beneficiary.

(c) For an administrator of an estate to sign documents for a deceased registered owner, legal owner, or junior lienholder, the following shall apply:

(1) The administrator shall submit, with the application for registration, a copy of the Letters of Administration containing an endorsement or stamp by the clerk of a Superior Court indicating the date the document was filed by the court.

(2) An endorsement by an administrator of an estate shall consist of, either:.

(A) the printed or written name of the registered owner, legal owner, or junior lienholder, followed by the signature of the administrator, using the exact name used in the Letters of Administration, and followed by the word "Administrator," or

(B) the signature of the administrator, using the exact name used in the Letters of Administration, followed by "Administrator of the Estate of (name of the decedent)."

(d) For a public administrator to sign documents for a deceased registered owner, legal owner, or junior lienholder, the following shall apply:

(1) When the administrated estate is valued at more than $10,000 and not in excess of $100,000 or any greater amount prescribed in Probate Code Section 13100, a copy of the court order authorizing the distribution of the property, containing an endorsement or stamp by the clerk of a Superior Court indicating the date the document was filed by the court, shall be submitted as part of the application for registration.

(2) When an estate is valued at $10,000 or less, the public administrator shall provide a statement signed under penalty of perjury, that includes, but is not limited to, the following information:

(A) The unit identifying information;

(B) a statement that the decedent's estate was valued at $10,000 or less.

(3) An endorsement by a public administrator shall consist of:

(A) the printed or written name of the registered owner, legal owner, or junior lienholder, followed by the signature of the public administrator or a deputy public administrator, and followed by the words "Public Administrator"; or

(B) the signature of the public administrator or a deputy public administrator, followed by "Public Administrator of the Estate of (name of the decedent)."

(e) In order for an executor of an estate to sign documents for a deceased registered owner, legal owner or junior lienholder, the following shall apply:

(1) A copy of the Letters Testamentary, containing an endorsement or stamp by the clerk of a Superior Court indicating the date the document was filed by the court, shall be submitted with the application for registration.

(2) An endorsement by an executor of an estate shall consist of:

(A) the printed or written name of the registered owner, legal owner, or junior lienholder, followed by the signature of the executor, using the exact name used in the Letters Testamentary and followed by the word "Executor," or

(B) The signature of the executor, using the exact name used in the Letters Testamentary, followed by "Executor of the Estate of (name of the decedent)."

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080.1, 18080.2, 18085, 18100.5, and 18102, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5542.2. Acceptable Signatures and Endorsement by an Authorized Representative of a Registered Owner, Legal Owner, or Junior Lienholder Other Than a Deceased Registered Owner, Legal Owner, or Junior Lienholder.

(a) The signature of an individual shall be in the true name of that person, or shall be sufficiently similar to his or her true name so as to be reasonably determinable as the "normal signature" of that individual. A signature will be reasonably determinable as the "normal signature" of an individual if it varies from the individual's true name only because it uses initials rather than the entire first or middle name, or because it omits the middle name. Variations beyond those acceptable as the "normal signature" will be accepted only if a statement meeting the requirements of Section 5543(c) is submitted by the signatory.

(b) The signature of a trustee of a trust shall be accepted by the department if the requirements of Section 5540(c)(2) have been met, and if the trustee named in the trust agreement submitted pursuant to Section 5540(c)(2) is:

(1) an individual, the signature is in the true name or the "normal signature" as defined in subdivision (a) above of the individual named as trustee, followed by the word "trustee"; or

(2) a company, the signature meets the requirements of subsection (c) for the company named as trustee, followed by the word "trustee".

(c) An officer or authorized agent of a company shall type or print the company name and shall sign for the company. The initials of an officer or authorized agent's signature shall be either the officer or authorized agent's true name or shall meet the definition of a "normal signature" set forth in subsection (a).

(d) The signature of a personal representative of a deceased registered owner, legal owner, or junior lienholder, or of an administrator or executor of an estate holding registered ownership, legal ownership, or a junior lienholder interest in a unit, shall be as specified in Section 5542.1.

(e) An illiterate person or mentally competent person who can no longer write his or her normal signature may sign with a mark. Next to the mark, one witness shall print the name of the person who signed with a mark and shall sign his or her own name. Two witnesses must sign their names before the mark can be used as an acceptable signature on a statement signed under penalty of perjury.

(f) A signature by an attorney–in–fact, designated in a power of attorney, shall be accepted if the following requirements are met:

(1) the attorney–in–fact shall present either the original power of attorney or a copy;

(2) the power of attorney shall be one of the following:

(A) A statement appointing an attorney–in–fact which includes at least the following information:

1. The unit identifying information;

2. Name of the person or company appointing the attorney in fact.

3. Name of the person or company being appointed as the attorney–in–fact.

4. Statement authorizing the appointed attorney–in–fact to sign papers and documents contained in an application for registration.

5. Signature of the person or company appointing the attorney-in-fact.

6. Date the statement is signed; or,

(B) A statement which purports to grant powers of attorney and which:

1. contains the date of its execution;

2. is signed by the principal or in the principal's name by some other person in the principal's presence; and

3. is acknowledged before a notary public or by two witnesses other than the attorney-in-fact that either witnessed the signing or the power of attorney by the principal or the principal's acknowledgment of the signature or the power of attorney; or

(C) a properly completed statutory form of power of attorney as specified in Section 4401 of the Probate Code that complies with Section 4402 of the Probate Code; or

(D) any properly completed statutory form of power of attorney which complies substantially with former Civil Code Section 2450 (originally enacted by Statutes 1984, chapter 602) or former Civil Code Section 2475 (originally enacted by Statutes 1990, chapter 986), and Probation Code section 4102, and is signed by the principal and acknowledged by a notary public; and

(3) the attorney-in-fact writes or types the name of the principal and signs below it as the attorney-in-fact.

(g) In order for a conservator to sign documents for a registered owner, legal owner, or junior lienholder, a copy of the Letters of Conservatorship issued by a Superior Court, which contains an endorsement or stamp by the clerk of the court indicating that date the document was filed by the court shall have been received by the department, and the endorsement shall consist of either:

(1) the printed or written name of the registered owner, legal owner, or junior lienholder, and the signature of the conservator using the exact name used in the Letters of Conservatorship or, when the conservator is a public administrator, the deputy administrator, and followed by the word "Conservator"; or

(2) the signature of the conservator using the exact name used in the Letters of Conservatorship or, when the conservator is a public administrator, the deputy administrator, followed by "Conservator for (name of the conservatee)."

(h) In order for a guardian to sign documents for a registered owner, legal owner, or junior lienholder, the requirements of Section 5540(c)(6) shall have been met, and the endorsement shall consist of either:

(1) The printed or written name of the registered owner, legal owner, or junior lienholder, and the signature of the guardian, using:

(A) the exact name used in the Letters of Guardianship, if applicable, or, when the guardian is a public administrator, the deputy administrator, and followed by the word "Guardian"; or

(B) the guardian's "normal signature" as defined in subsection (a) above, if the guardian is signing as the parent of the registered owner, legal owner or junior lienholder; or

(2) the signature of the guardian followed by "Guardian for (name of the ward)", with the signature of the guardian using either:

(A) the exact name used in the Letters of Guardianship, if applicable, or, when the conservator is a public administrator, the deputy administrator; or

(B) the guardian's "normal signature" as defined in subsection (a) above, if the guardian is signing as the parent of the registered owner, legal owner or junior lienholder.

(i) In order for a trustee, appointed by the Bankruptcy Court, to sign documents for a registered owner, legal owner, or junior lienholder, a copy of the order of the Bankruptcy Court appointing the signatory as trustee in bankruptcy for the registered owner, legal owner or junior lienholder, containing an endorsement or stamp by the clerk of the Bankruptcy Court indicating the date the document was filed by the court, shall be submitted to the department, and endorsement shall consist of either:

(1) the printed or written name of the registered owner, legal owner, or junior lienholder, followed by the signature of the bankruptcy trustee, using the exact name used in the order of the Bankruptcy court, and followed by the word "Trustee"; or

(2) the signature of the trustee, using the exact name used in the order of the Bankruptcy court, followed by "Trustee for (name of the bankrupt registered owner, legal owner or junior lienholder)."

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080.1, 18085 and 18100.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5543. Requirements for Clarification, Correction, or Change of Name.

(a) A registered owner, legal owner or junior lienholder may apply to the department for a clarification, correction or change of name and shall meet the requirements of this section.

(b) The application for registration shall include the statement as specified in subsection (c) when;

(1) An individual's or company's name is signed or printed so differently that it is possible two different people or companies are involved, or

(2) A individual's or company's name is misspelled on registration and titling documents, or

(3) An individual or company has changed his/her/it's name and the name differs from the name recorded on the department's records.

(c) When the application includes the clarification or correction of an individual or company's name, or the change of name of an individual, a statement completed by the party whose name requires clarification, correction, or change, signed under penalty of perjury which includes the following information:

(1) The unit identifying information.

(2) A statement attesting to the clarification, correction, or change in name.

(d) When the change of name involves a company, the application shall include one of the documents as specified in Section 5543.1

(e) When the person whose name is in question is no longer available to complete and sign a statement, an individual having knowledge of the name in question can attest to this knowledge and to how this knowledge was gained by completing the statement as described in subsection (b)(1) and (2).

(f) An application submitted to the department to clarify, correct, or change the name(s) of the registered owner(s) or legal owner shall also include:

(1) the titling document, and

(2) the registered owner's registration card, if the application is to clarify, correct, or change the name of the registered owner(s).

(g) An application submitted to the department to clarify, correct, or change the name(s) of the junior lienholder(s) shall also include:

(1) the junior lienholder's registration card.

(h) When the application to clarify, correct, or change the name of the registered owner(s) is not submitted with any other addition, deletion, or change in registered owner, payment for a transfer fee as specified in subsection 5660(b) shall be submitted.

(i) When the application to clarify, correct, or change the name of the legal owner(s) or junior lienholder(s) is not submitted with any other addition, deletion, or change in legal owner(s) or junior lienholder(s), payment of the lien registration service fee as specified in subsection 5660(m) shall be submitted.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080.1, 18085 and 18100.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5543.1. Company Name Change Without a Change in Business Entity.

(a) When a company changes its name without a change of business entity and the name now differs from the name shown on registration and titling documents, a clarification of name is required, as specified in subsections (b) or (c), as part of an application for registration.

(b) One of the following documents is required, when the company is a corporation:

(1) A copy of the Board of Directors Resolution authorizing the name change;

(2) A copy of the minutes of the meeting that authorized the name change;

(3) A statement on company letterhead, signed and dated by a corporate officer or authorized agent of the company, explaining that the name change did occur and that a change of business entity did not occur.

(c) When an individual or a partnership owns the company:

(1) A statement signed under penalty of perjury which contains the following information:

(A) The unit identifying information and

(B) A statement explaining that the name change did occur and that a change of business entity did not occur.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080.1, 18085, 18100.5, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5544. HUD Label and HCD Insignia Number Requirements.

(a) Except as provided in subsection (b), all applications for registration submitted to the department to report the sale, rent, or lease of a manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach manufactured on or after September 1, 1958 must contain the HUD label or HCD insignia number(s).

(b) The provisions of this section shall not apply to manufactured homes, mobilehomes, multi–unit manufactured housing, and commercial coaches sold to the federal government for use on federal lands or to commercial coaches manufactured for delivery out–of–state.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18026, 18026.1, 18085, 18091, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5545. Smoke Detector Certification Requirements.

(a) When an application is submitted to the department to transfer ownership, as the result of a sale of a used manufactured home, mobilehome, or multi–unit manufactured housing, the application shall include the following:

(1) A statement signed under penalty of perjury, which contains the following information:

(A) The unit identifying information and

(B) A statement certifying that the manufactured home, mobilehome, or multi–unit manufactured housing, is equipped with an operable smoke detector on the date of transfer of title.

NOTE: Authority cited: Sections 18015, 18075, 18029.6, Health and Safety Code. Reference: Section 18029.6, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5546. Acceptable Methods to Renew Yearly Registration.

(a) The registration of a manufactured home, mobilehome, or commercial coach subject to in lieu taxation, shall be renewed annually no later than the expiration date of the previous year's registration.

(b) Each application for renewal of registration shall include fees specified in Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

(c) The application for renewal of registration may consist of one of the following items:

(1) The Registration Renewal Billing Notice mailed by the department to the registered owner, as recorded on the department's records.

(2) The last issued registered owner's registration card provided by the department pursuant to Section 18080.7(d) of the Health and Safety code.

(d) If the fees as specified in Sections 18114, 18114.1, 18115, and 18116 are not paid within sixty days of the expiration date of the registration, for a manufactured home or mobilehome, the department issues a notice of delinquency. This notice may be used as an application for renewal of registration, if transmitted to the department along with the fees specified in Sections 18114, 18114.1, 18115, and 18116, of the Health and Safety Code.

(e) The payment of renewal fees shall be presented in person to the department within normal working hours up to and including the date of expiration or shall be mailed to the department with a postmark before midnight of the date of expiration or with a statement completed by the applicant that the fees were mailed by midnight of the date of expiration.

(f) The sticker issued by the department upon payment of the registration fees, shall be placed in the upper right hand corner of the decal or license plate(s) located on the unit as specified in Section 18092(b) of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18092, 18109, 18114, 18114.1, 18115 and 18116, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5546.1. Payment of Annual Renewal Fees with an Application for Registration.

(a) When an application is submitted to the department for a change, addition, or deletion of the registered owner's name or names, within sixty days of the date of expiration on a manufactured home, mobilehome, or commercial coach, the renewal fees specified in Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code shall accompany the application, unless the applicant can provide evidence of current registration. Current registration refers to the registration for the upcoming registration year.

(b) The department will accept any one of the following items as evidence of current registration:

(1) The registered owner's registration card issued by the department or DMV, which displays a current expiration date.

(2) The titling document issued by the department or DMV, which displays a current expiration date.

(3) Written acknowledgment issued by the department, which shows the amount of renewal fees paid and the date the renewal fees were submitted to the department for the renewal of the registration of a unit. The renewal of the registration shall be for the upcoming registration year.

(4) The number located on the renewal sticker issued by the department after payment of annual renewal fees for the upcoming registration year.

(5) A photocopy of the front and back of a canceled check, money order, or cashier's check used as payment of annual renewal fees for the upcoming registration year.

(6) A receipt issued by DMV, which shows the amount and date renewal fees were submitted to DMV to renew the registration of the unit for the upcoming registration year.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18108, 18108.5, 18109, 18114, 18114.1, 18115, 18116, 18116.1 and 18118, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5547. Requirements for Bonds and Other Undertakings.

(a) When at any time in Chapter 5, a requirement for an application for registration of a unit includes, as an alternative, the provision of a bond

or undertaking as described in this section, the bond or undertaking shall be one of the following:

(1) A surety bond issued by a surety company authorized to transact general surety business in the State of California, executed by the principal and surety and acknowledged by a Notary Public using the certificate of acknowledgment specified in Section 1189(a) of the Civil Code. The bond shall be valid for a three-year period from the date the completed application for registration is received by the department.

(2) A certificate of deposit or investment certificate issued by a financial institution authorized to do business in the State of California and insured by the Federal Deposit Insurance Corporation, which indicates the name of the depositor and is made payable to the department. The certificate of deposit or investment certificate shall be valid for a three-year period from the date the completed application for registration is received by the department.

(3) Money deposited in a financial institution evidenced by a share or savings account passbook which shows the name and address of the financial institution and contains the signature of an officer or authorized agent of the financial institution. The account passbook shall be assigned to the department by the person evidence by the passbook to be the depositor of the account. The assignment of the account passbook shall be valid for a three-year period from the date the completed application was received by the department.

(4) A cashier's check made payable to the department. A warrant in the amount of the cashier's check will be sent to the applicant by the department at the end of the three-year period, beginning with the date the completed application for registration is received by the department.

(5) Any governmental agency identified in Section 995.220 of the Code of Civil Procedure may, in lieu of a bond or undertaking described herein, submit a letter of indemnification, indemnifying the department from all claims occurring because of the lack or defect in the application for registration. The letter of indemnification shall acknowledge the acceptance by the issuing governmental agency of all liability due to any claims, suits, actions, losses or damage on account of any defect in or undisclosed claim, lien, or encumbrance of whatever nature, pertaining to the application for registration or the registration or titling of the unit pursuant thereto. The letter shall include the unit identifying information and an acknowledgment that the indemnification shall remain in effect for a period of 3 years from the date the completed application for registration is received by the department.

(b) The value of any bond or other undertaking accepted by the department, except for a letter of indemnification described in subsection (a)(5) above, shall be the greater of:

(1) the total contract (sale) price of the unit;

(2) the current market value of the unit based on the manufacture year, makeup, condition and location of the unit; or

(3) the average of the values given in the current edition of the National Automobile Dealers Association (N.A.D.A.) Mobile/Manufactured Housing Appraisal Guide and the Kelley Blue Book.

(c) An application for registration which includes a bond or undertaking described in subsection (a) above shall not be accepted by the department unless it also includes:

(1) a statement, signed under penalty of perjury by the applicant(s) that:

(A) describes the circumstances requiring the submission of a bond or undertaking;

(B) explains how, when and from whom the unit was acquired; and

(C) describes reasonable attempts made to locate and obtain the document or signature for which the bond or undertaking is being submitted as an alternative; and

(D) a statement of the current market value of the unit;

(2) evidence that attempts were made by the applicant(s) to obtain the document or signature for which the bond or undertaking is being submitted as an alternative, which may be, for example, unopened, returned certified letters addressed to the last known address of the owner from which a signature or titling document has been sought;

(3) if the undertaking is either a certificate of deposit, an investment certificate, or an account passbook, pursuant to subsection (a)(2) or (a)(3), the following forms, completed and signed:

(A) form HCD 482.4, Irrevocable Assignment to the Department of Housing and Community Development, version dated 7/97, provided by the department, completed by each person providing the certificate of deposit, investment certificate or account passbook and by the financial institution in which the funds evidenced by the certificate of deposit, investment certificate or account passbook are deposited:

DEPARTMENT USE ONLY
CONTROL NUMBER

BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS
REGISTRATION AND TITLING PROGRAM

IRREVOCABLE ASSIGNMENT TO THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

SECTION I. DESCRIPTION OF UNIT

This unit is a (check one):

☐ Manufactured Home, Mobilehome, Multi-unit Manufactured Housing ☐ Commercial Coach ☐ Truck Camper ☐ Floating Home

The Decal (License) Number(s): _____

The Trade Name is: _____

The Serial Number(s) is: _____

SECTION II. ASSIGNMENT AND CERTIFICATION

We _____
Name of Applicant(s) Exactly as it Appears on Application

Hereinafter referred to as Assignor, whose principal place of residence is located at :

_____
Street Address City State Zip

I/we does hereby irrevocably assign and set over to the State of California , Department of Housing and Community Development, hereinafter referred to the insured account of Assignor in the (financial institution name) _____ whose address is

_____
Street Address City State Zip

as evidenced by an account in the amount of $_____, identified by Account No _____ which is delivered to the Department by Assignor. Assignor agrees and stipulates that this irrevocable assignment carries with it the right in and to the insurance of this account by the Federal Deposit Insurance Corporation. This irrevocable assignment is given to the Department under the provisions of Section 18086.5 of the California Health and Safety Code is binding on Assignor, his/her heirs, administrators, successors, and irrevocably assigns jointly and severally and is conditioned that Assignor, made is about to make, application to the Department for registration or transfer of ownership interest of the unit described above.

I/We certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ at _____
Date *City* *State*

Applicant Signature _____

Address: _____
Street Address or P.O. Box *City* *State* *Zip*

SECTION III. FINANCIAL INSTITUTION - ENDORSEMENT AND RECEIPT OF IRREVOCABLE ASSIGNMENT

Receipt is hereby acknowledged to the State of California, Department of Housing and Community Development of written notice of the irrevocable assignment to said Department of the above-identified account. We have noted our records to show the interest of the Department in said account as shown in and by the irrevocable assignment above. We have retained a copy of this document. We hereby certify that we have not received any notice of lien, encumbrance, hold, claim, or other obligation against the above-identified account prior to its irrevocable assignment of the Department. We agree to make payment as required by the California Health and Safety Code in accordance with the banking or savings and loan laws applicable to the bank association.

Executed on _____ at _____
Date *City* *State*

Financial Institution Signature: _____

Address: _____
Street Address or P. O. Box *City* *State* *Zip*

DEPARTMENT USE ONLY

Receipt is hereby acknowledged of the irrevocable assignment above and the account identified in the irrevocable assignment above. The Financial Institution named in the irrevocable assignment above is thereby authorized and directed to pay any earnings on the above-identified account to the above-named Assignor.

Executed on _____ at _____
Date *City* *State*

Department of Housing and Community Development, Registration and Titling Section

Signature of Authorized Employee: _____ Title: _____

DISTRIBUTION:WHITE & BLUE COPY: DEPARTMENTPINK COPY: APPLICANTYELLOW COPY: FINANCIAL INSTITUTION

HCD 482.4 (7/97)

(B) form HCD 482.5, Notice of Acknowledgment, version dated 7/97, as provided by the department, completed by each person providing the certificate of deposit, investment certificate or account passbook:

BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS
REGISTRATION AND TITLING PROGRAM

NOTICE OF ACKNOWLEDGMENT

SECTION I. DESCRIPTION OF UNIT

This unit is a (check one):

☐ Manufactured Home, Mobilehome, Multi-unit Manufactured Housing ☐ Commercial Coach ☐ Truck Camper ☐ Floating Home

The Decal (License) Number(s) is: _____

The Trade Name is: _____

The Serial Number(s) is: _____

SECTION II. ACTION REQUESTED

I/We _____
Name of Applicant(s) Exactly as it Appears on Application

having made, or about to make, application for registration or transfer of ownership interest of the unit above (Check One):

☐ Elect to post a deposit in the amount of $_____ with the Department of Housing and Community Development in lieu of a surety bond in like amount as provided for in Section 18086.5 of the California Health and Safety Code.

Applicant further understands that the Director is authorized to reduce the sum of said deposit to the extent of all claims owing the Department of Housing and Community Development arising from any loss or damage on account of any defect in or undisclosed claim upon the right, title and interest of the Applicant or other person in and to the above-described unit, and reasonable attorney fees and administrative costs incurred in processing claims against such deposit, that the reduction of such deposit by any amount is grounds for automatic cancellation of the certificate of title, under the provisions of Section 18122 of the California Health and Safety Code, until such time as the deposit is restored to its original amount.

☐ Elect to post, under provisions of Section 18086.5 of the California Health and Safety Code, with the Department of Housing and Community Development evidence of a $_____deposit, or an investment certificate in like amount, in a Financial Institution authorized to do business in the State of California and insured by the Federal Deposit Insurance Corporation or the _____, together with a written irrevocable assignment of said deposit or certificate to the Department of Housing and Community Development. Said deposit or certificate issued by:

_____
(Financial Institution) *(Certificate Number)*

_____
Street Address or P.O. Box *City* *State* *Zip*

☐ Elect to post, under the provisions of Section 18086.5 of the California Health and Safety Code, a Certificate of Deposit or a fully paid certificate in my/our name, issued by a financial institution authorized to do business in the State of California and insured by the Federal Deposits Insurance Corporation, or the_____, and payable to the Department of Housing and Community Development in the amount of $_____ Said Certificate has been issued by:

_____
(Financial Institution) *(Certificate Number)*

_____
Street Address or P.O. Box *City* *State* *Zip*

SECTION III. ACKNOWLEDGMENT OF APPLICANT

I/We acknowledge that the deposit, investment certificate, certificate of deposit, or a full paid certificate will be retained by the Department of Housing and Community Development for a three-year period from the date the certificate of title is issued for the above-described unit. After the three-year period, it shall be returned to:

Executed on _____ at _____
Date *City* *State*

Signature: _____

Address: _____
Street Address or P.O. Box *City* *State* *Zip*

DISTRIBUTION: WHITE COPY - DEPARTMENT, GREEN COPY - APPLICANT

HCD 482.5 (7/97)

(4) if the undertaking is a cashier's check pursuant to subsection (a)(4), completed and signed form HCD 482.5, Notice of Acknowledgment, version dated 7/97, as provided in subsection (c)(3).

(d) Notwithstanding anything in this section or in Chapter 5 to the contrary a bond or undertaking described in this section shall not be acceptable evidence to the department that the security interest of any inventory creditor, legal owner, junior lienholder or other party with a security interest in the unit identified on any DMV or department record no longer exits, if the inventory creditor, legal owner, junior lienholder or holder of the security interest is a financial institution. In that instance, the release of the security interest pursuant to Section 5581 or 5585, as applicable, will be required.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18085, 18086.5, 18100.5 and 18102.5, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5547.1. Tax Clearance Certificate and Conditional Tax Clearance Certificate Requirements.

(a) An application for registration that transfers the interest of the registered owner of either a used manufactured home, used mobilehome, used multi–unit manufactured housing, or used floating home, which is subject to local property taxation, shall contain a completed Tax Clearance Certificate or a completed Conditional Tax Clearance Certificate.

(b) Except as provided in subsection (e), the Tax Clearance Certificate or the Conditional Tax Clearance Certificate shall be issued by the tax collector of the county within which the manufactured home, mobilehome, multi–unit manufactured housing, or floating home is located.

(c) The applicant's name(s) as shown on the Tax Clearance Certificate or the Conditional Tax Clearance Certificate shall be the same as the names of the new registered owner(s) shown on the application for registration.

(d) In order for the department to accept a completed Tax Clearance Certificate or a completed Conditional Tax Clearance Certificate, the application with which the certificate is submitted must be received by the department prior to the "void on or after date" shown on the certificate. If the application is incomplete and additional documents and/or fees are required, the department shall request a new certificate with a non–expired "void on or after date."

(e) In order for the Conditional Tax Clearance Certificate to be valid, the escrow officer shall complete the Certification of Escrow Officer portion of the Conditional Tax Clearance Certificate.

(f) In lieu of the Tax Clearance Certificate or Conditional Tax Clearance Certificate, an escrow officer shall provide a statement signed under penalty of perjury, which provides the following information:

(1) The unit identifying information;

(2) A statement certifying that a written demand for a completed Tax Clearance Certificate or a completed Conditional Tax Clearance Certificate was requested from the county tax collector, specifying the date, and that the county tax collector has failed to respond within thirty days of the date of the written demand.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18035(m) and 18092.7, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5548. Statement of Error or Erasure.

(a) A person, who has in error signed, erased, lined through, altered a name or signature that denotes ownership, shall complete and submit to the department with the application for registration, a statement signed under penalty of perjury, which contains the following information:

(1) The unit identification and

(2) A statement indicating the line number and the name of the form on which the error occurred and certifying to the reason for the error or erasure.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 17403.2, Financial Code; Sections 18080.5, 18080.7 and 18100.5, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5548.1. Assignment of Expiration Dates.

(a) The expiration date assigned for a nonresident manufactured home, mobilehome, or commercial coach shall be the last day of the month in which the annual registration fees become due, unless the month is December. December 30 shall be assigned, when fees become due in the month of December.

(b) The expiration date assigned to a manufactured home, mobilehome, or commercial coach, which changes from exempt registration to in lieu taxation status, shall be the last day of the month in which the unit no longer qualified for exempt status unless the month is December. December 30 shall be assigned, when the month is December.

(c) The expiration date assigned to a new commercial coach shall be the last day of the month in which the commercial coach is sold, unless the month is December. December 30 shall be assigned, when the month in which the commercial coach is sold is December.

(d) The expiration date assigned to a multi–sectioned manufactured home or mobilehome, previously registered with DMV under separate decals with different expiration dates, shall be the later expiration date. Prorated registration fees and vehicle license fees shall be required from the date of expiration to the new expiration date for the section of the manufactured home or mobilehome with the earlier expiration date.

(e) The expiration date assigned to a manufactured home or mobilehome, that was first sold new prior to July 1, 1980, and enters California from another state, will be the last day of the month that fees became due, unless the month is December. December 30 shall be assigned when fees become due in the month of December.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18114 and 18115, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5549. Completion or Reproduction of Documents and Forms.

(a) All documents or forms submitted in an application for registration shall comply with the following requirements:

(1) All documents or forms shall be completed and signed in ink.

(2) All information provided on documents or forms submitted in an application for registration shall be completely legibly.

(3) All documents and forms typed or electronically produced shall be completed in at least 10 point type.

(b) Forms approved by the department and forms provided by the department pursuant to this Chapter, shall include reproductions by photographic or electronic means. Reproduction by photographic or electronic means shall not alter the form in any manner.

(c) Reproduction by electronic means of the forms required pursuant to this Chapter, shall include the originators name, company, or organization at the bottom of each form.

(d) Reproduction by electronic means of the forms required pursuant to this Chapter, shall not require the Department of Housing and Community Development seal to be part of the electronically reproduced form.

(e) Forms reproduced by electronic means shall be submitted to the department for review and the department shall notify the submitter of the acceptability or non–acceptability.

(f) All forms and documents submitted to the department shall be prepared on white paper except for original documents in existence or prepared prior to the current transaction.

(g) An application for registration that contains forms or documents not complying with subsections (a),(b),(c),(d), or (e) will be returned to the applicant.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18085, 18092.5 and 18100.5, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5549.1. Confidentiality of Home Address for a Registered Owner.

(a) The registered owner of a manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home who does not wish his or her home address, as it appears in the department's records, disclosed as public information, shall comply with the requirements of this section.

(b) A registered owner requesting confidentiality shall submit a statement signed under penalty of perjury which contains the following information:

(1) The unit identifying information.

(2) The location address of the unit, that is to be confidential.

(3) The current mailing address of the unit. This address must be different than the location address as provided in subsection (2).

(c) The application shall include payment for a Home Address Confidentiality Fee as required by subsection 5660(o).

(d) In order to remove the confidentiality of the home address, the registered owner shall submit a statement signed under penalty of perjury which contains the following information:

(1) The unit identifying information.

(2) A written statement requesting the removal of the confidential status of the home address and providing the department with the current mailing address.

(f) When the department has recorded confidentiality, and a subsequent application for registration is submitted to the department to change the registered owner recorded on the permanent title record, a new request for confidentiality must be made and the requirements of this section met.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18081, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5549.2. Change of Mailing Address.

(a) In order to change the mailing address for the registration of a manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home, the registered owner, legal owner or junior lienholder shall comply with the requirements of this section.

(b) The registered owner, legal owner, or junior lienholder shall notify the department of the change by complying with one of the following:

(1) Submit a written request to the department, providing the decal or license number(s), manufacturer's trade name, serial number(s) of the manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home, the applicant's name, old mailing address, and new mailing address. The letter also shall include a statement requesting the department to change its records to the new address.

(2) Contact the department and provide the decal or license number(s), manufacturer's trade name, serial number(s) of the manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper or floating home, his or her name, old mailing address, and new mailing address.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18098, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5549.3. Change of Location Address for a Commercial Coach.

(a) When the location address of a commercial coach has been changed, the registered owner shall notify the department of the change within 10 days.

(b) The registered owner shall provide written notification, signed under penalty of perjury which contains the following information:

(1) The unit identifying information.

(2) The registered owner identifying information.

(3) The new location address for the unit.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18099, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5549.4. Change of Location Address of a Manufactured Home, Mobilehome, Multi–Unit Manufactured Housing, or Floating Home.

(a) In order to request a change of the address of the location of a manufactured home, mobilehome, multi–unit manufactured housing, or floating home, as shown on the department's records, the registered owner, legal owner, or junior lienholder shall submit a written notification to the department, signed under penalty of perjury which contains the following information:

(1) The unit identifying information.

(2) The registered owner identifying information.

(3) The new location address of the unit.

(b) If a legal owner is recorded on the department's records, in addition to the notification as required by subsection 5549.4(a), written consent of the legal owner, authorizing the location change shall be submitted with the notification required by subsection 5549.4(a).

(c) If a junior lienholder is recorded on the department's records, in addition to the notification as required by subsection 5549.4(a), written consent of the junior lienholder, authorizing the location change shall be submitted with the notification required by subsection 5549.4(a).

(d) When a request for consent to move a unit is mailed to the legal owner or junior lienholder and 30 days have passed since the request was mailed or delivered, and the legal owner or junior lienholder has neither given or withheld consent, and the unit is to be moved, the written notification as required in subsection 5549.4(a) shall contain a statement to this effect.

(e) The last issued registration card for the unit.

(f) The application shall include payment of the Situs Change Fee specified in subsection 5660(n).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18099.5 and 18100, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 5. Duplicates and Substitutes

§ 5550. Requirements for Obtaining a Duplicate Certificate of Title.

(a) In addition to the applicable requirements of Article 2, Registration Requirements, of this chapter, an application to obtain a duplicate titling document shall meet the requirements of this section.

(b) When the title issued by DMV or HCD is lost, stolen, mutilated, illegible, or was not received, the legal owner or, if no legal owner, the registered owner shall complete and submit to the department an application for duplicate certificate of title, which contains the following information:

(1) The decal or license number for the unit.

(2) The serial number(s) for the unit.

(3) The trade name of the unit.

(4) The registered owner's name(s), mailing address and location address of the unit.

(5) The legal owner(s) name and address, if any.

(6) A certification of the missing title which is signed under penalty of perjury that states the disposition of the original title.

(c) When an application is submitted to the department that requires the correction of unit information or the registered owner(s) or legal owner(s) names, in addition to the requirements of subsection (b), the application for duplicate certificate of title shall contain the following information:

(1) The manufacturer name, if known.

(2) The manufacturer ID number, if known.

(3) Model name or number, if known.

(4) The date of manufacturer, if known.

(5) The date first sold new, if known.

(6) The HUD or HCD Insignia label number(s), if known.

(7) The length and width of each transportable section, if known.

(8) The weight of each transportable section, if known.

(d) When an application is submitted to the department to transfer the ownership of the registered owner(s) and/or the legal owner(s), in addition to the requirements of subsections (b) and (c), the following information shall be submitted on the application for duplicate certificate of title:

(1) The new registered owner(s) name, address, and location of the unit.

(2) The new legal owner(s) name and address, as specified in Section 5580, if any.

(3) The new junior lienholder(s) name and address as specified in Section 5584, if any.

(4) The release of the registered owner(s) as specified in Section 5533 and release date, if appropriate.

(5) The release of the legal owner(s)and release date, as specified in Section 5581, if appropriate.

(6) The release of the dealer, release date, and dealer license number, if the transaction occurred by or through a dealer.

(7) The signature(s) of the new registered owner(s) as specified in Section 5533.

(8) The purchase price and purchase date if the application is submitted to report the sale of a unit.

(e) If the unit is registered under a decal or license plate issued by DMV, the application shall include the last issued Registered Owner Registration Card.

(f) The application shall include payment of the Duplicate Certificate of Title Fee required by subsection 5660(f).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18100.5, 18108.5 and 18110, Health and Safety Code.

HISTORY

1. New article 5 (sections 5550–5553) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5551. Requirements for Obtaining a Duplicate Registration Card for a Unit.

(a) When the registration card issued by the department is lost, stolen, mutilated, illegible, or was not received, the registered owner or junior lienholder may obtain a duplicate registration card for a unit. The registered owner or junior lienholder(s) shall complete and submit to the department an application for a duplicate registration card which contains the following information:

(1) The decal or license number(s) of the unit.

(2) The serial number(s) of the units.

(3) The trade name of the unit.

(4) The registered owner(s) name, mailing address, and location address of the unit.

(5) The junior lienholder name and address, if submitted by the junior lienholder.

(6) A certification signed under penalty of perjury that states the disposition of the original registration card.

(b) The application shall include payment of the Duplicate Registration Card Fee required by subsection 5660(g).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080.7, 18090.5, 18100, 18100.5 and 18108, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5552. Requirements for Obtaining a Substitute Decal or Substitute Year Sticker.

(a) In addition to the applicable requirements of Article 2, Registration Requirements, of this chapter, an application to obtain a substitute decal or substitute year sticker, when the original is lost, stolen, destroyed, mutilated, illegible, or not received, shall meet the requirements of this section.

(b) The registered owner shall submit to the department a written request for a replacement decal and/or sticker which shall include but is not limited to the following:

(1) Identification of the type of unit as being either a manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home

(2) Each decal or license plate number;

(3) Each serial number

(4) The manufacturer's trade name, if any;

(5) A signed statement certifying that the decal and/or sticker issued for the unit is lost, stolen, destroyed, mutilated, illegible, or not received.

(c) The application shall include the titling document issued by DMV, if the unit is registered under a license plate or decal issued by DMV, and the application is for a substitute decal.

(d) The application shall include the last issued Registered Owner Registration Card if the unit is registered under a license plate or decal issued by DMV, and the application is for a substitute decal.

(e) The application shall include payment of the Substitute Decal or Sticker Fee required by subsections 5660(h) or 5660(i).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18092, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5553. Requirements for Obtaining a Substitute Month Sticker.

(a) In order to obtain a substitute month sticker, the registered owner shall do one of the following:

(1) Contact the department by telephone or in person and request the substitute month sticker, and provide the decal number, serial number, and trade name, or

(2) Submit a written request to the department for a substitute month sticker which shall include the decal number, serial number, and trade name.

NOTE: Authority Cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18075, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 6. Manufacturer Reporting Requirements

§ 5560. Manufacturer Certificate of Origin Requirements.

(a) Upon being first licensed by the department, and thereafter at the request of the manufacturer, the department shall provide the manufacturer with one or more MCO Books, which remain state property.

(b) An MCO Book contains sequentially numbered forms in quadruplicate, to be completed and distributed as follows:

(1) the Original (pink), to the inventory creditor, or, if there is none, to the entity which purchased the unit from the manufacturer;

(2) Copy 1 (white), to the department, at the time of release of the unit to any entity;

(3) Copy 2 (yellow), must accompany the unit when it is transported;

(4) Copy 3 (goldenrod), is the book copy and is to be retained by the manufacturer in the MCO Book.

(c) Form HCD 483.0, Manufacturer Certificate of Origin, version dated 7/97, a two-sided form, as provided by the department:

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS
MANUFACTURED HOUSING PROGRAM

NUMBER

MANUFACTURER CERTIFICATE OF ORIGIN

☐ CHECK IF THIS IS A DUPLICATE MCO-ENTER ORIGINAL MCO NO _____

MANUFACTURED HOME OR MULTI-UNIT MANUFACTURED HOUSING

☐ SFD (SINGLE FAMILY DWELLING) ☐ MUMH (MULTI-UNIT MANUFACTURED HOUSING

NUMBER OF TRANSPORTABLE SECTIONS _____

COMMERCIAL COACH:

OCCUPANCY GROUP _____

MANUFACTURER NAME:

MANUFACTURER LICENSE NUMBER:

MANUFACTURER ADDRESS:

(Street) (City) (State) (Zip)

SUGGESTED RETAIL PRICE:

MANUFACTURER TRADE NAME:

MODEL NAME AND/OR NUMBER:

DATE OF MANUFACTURE:

NAME OF DEALER OR TRANSFEREE (OWNERSHIP TRANSFERRED TO):

CALIF. DEALER NUMBER OR TRANSFEREE DESIGNATION:

DATE OF TRANSFER:

DEALER OR TRANSFEREE ADDRESS:

(Street) (City) (State) (Zip)

INVENTORY CREDITOR NAME:

INVENTORY CREDITOR ADDRESS:

(Street) (City) (State) (Zip)

SECTION (1-6)	MANUFACTURER SERIAL NUMBER	HCD INSIGNIA OR HUD LABEL NUMBER	LENGTH (INCHES)	WIDTH (INCHES)	WEIGHT (POUNDS)

TRANSPORTER NAME

TRANSPORTER ADDRESS:

(Street) (City) (State) (Zip)

DESTINATION FOR UNIT DESCRIBED ABOVE:

(NAME) (Street) (City) (State) (Zip)

I certify under penalty of perjury under the laws of the State of California that the above facts are true and correct.

Executed on _____ at _____
(Date) (City) (County) (State)

SIGNATURE OF AUTHORIZED AGENT: _____

DISTRIBUTION:

ORIGINAL (PINK)	FORWARD TO THE INVENTORY CREDITOR, UNLESS THERE IS NONE, THEN FORWARD TO THE PURCHASER (DEALER OR TRANSFEREE)
COPY 1 (WHITE)	FORWARD TO THE DEPARTMENT AT P.O. BOX 1828, SACRAMENTO, CA 95812-1828, WITHIN FIVE (5) DAYS OF RELEASE
COPY 2 (YELLOW)	DELIVER TO THE TRANSPORTER TO ACCOMPANY THE UNIT TO ITS DESTINATION
COPY 3 (GOLDENROD)	TO BE RETAINED BY THE MANUFACTURER

HCD 483.0 - Side 1 - (7/97)

SECTION I. RELEASE OF SECURITY INTEREST

THE UNDERSIGNED INVENTORY CREDITOR RELEASES ALL INTEREST IN THE UNIT DESCRIBED ON THE FRONT SIDE OF THIS CERTIFICATE OF ORIGIN.

NAME OF INVENTORY CREDITOR:

SIGNATURE OF AUTHORIZED AGENT: | RELEASE DATE:

SECTION II. FIRST ASSIGNMENT

INSTRUCTIONS: The dealer as shown on the front of this form shall complete the First Assignment section when ownership or interest is being transferred to another dealer.

For the value received, the undersigned hereby transfers this Certificate of Origin and the described unit thereon to:

ADDRESS:

(Street) (City) (State) (Zip)

and certifies that the unit is new and has not been registered in this or any other state, he also warrants the title of said unit of time of delivery, subject to the liens and encumbrances, if any, as set out below:

NAME OF LIENHOLDER:

ADDRESS:

(Street) (City) (State) (Zip)

TRANSFEROR (FIRM NAME): | DATE OF TRANSFER: | TRANSFERRED AT (CITY):

SIGNATURE OF TRANSFEROR OR REPRESENTATIVE:

SECTION III. SECOND ASSIGNMENT

INSTRUCTIONS: The dealer as shown under the First Assignment shall complete the Second Assignment section when ownership or interest is being transferred another dealer.

For the value received, the undersigned hereby transfers this Certificate of Origin and the described unit thereon to:

ADDRESS:

(Street) (City) (State) (Zip)

and certifies that the unit is new and has not been registered in this or any other state, he also warrants the title of said unit at time of delivery, subject to the liens and encumbrances, if any, as set out below:

NAME OF LIENHOLDER:

ADDRESS:

(Street) (City) (State) (Zip)

TRANSFEROR (FIRM NAME): | DATE OF TRANSFER: | TRANSFERRED AT (CITY):

SIGNATURE OF TRANSFEROR OR REPRESENTATIVE:

HCD 483.0 - Side 2 - (7/97)

(d) The manufacturer shall complete a single MCO listing all sections of a manufactured home, mobilehome, or multi-unit manufactured housing.

(e) The manufacturer shall complete a separate MCO for each section of a commercial coach.

(f) Instructions for entering information on side one of the MCO are as follows:

(1) MANUFACTURED HOME/MOBILEHOME: Check the appropriate box to indicate if the unit is a:

(A) SFD (Single Family Dwelling), units constructed for use as a single family dwelling, or

(B) MUMH (Multi-unit Manufactured Housing), units constructed for use as defined in section 18008.7, of the Health and Safety Code.

(2) COMMERCIAL COACH: Enter the Occupancy Group Code pursuant to the California Building Standards Code, Chapter 3, commencing with Section 301, which specifies the designed structural use of the unit.

(3) NUMBER OF TRANSPORTABLE SECTIONS: Enter the number transportable sections for a manufactured home, mobilehome, or multi-unit manufactured housing. Because only one transportable section of a commercial coach can be reported on an MCO, the number of transportable sections is always one.

(4) MANUFACTURER NAME: Enter the name of the manufacturer of the unit.

(5) MANUFACTURER LICENSE NUMBER: Enter the manufacturer's license number assigned by the department.

(6) MANUFACTURER ADDRESS: Enter the address of the manufacturer.

(7) SUGGESTED RETAIL PRICE: The manufacturer's suggested retail price may be entered; this field is optional.

(8) MANUFACTURER TRADE NAME: Enter the full trade name of the unit, an abbreviation is not acceptable.

(9) MODEL NAME AND/OR NUMBER: Enter the model name and/or number assigned by the manufacturer.

(10) DATE OF MANUFACTURE: Enter the date manufacture of the unit was completed.

(11) NAME OF DEALER OR TRANSFEREE (OWNERSHIP TRANSFERRED TO): Enter the one of the following:

(A) if the unit is sold to a dealer or out-of-state dealer, enter the dealer's name; or

(B) if a manufactured home, mobilehome, or multi-unit manufactured housing is sold to a licensed California general contractor, as permitted by Section 18062.9 of the Health and Safety Code, enter the contractor's name; or

(C) If a manufactured home, mobilehome, or multi-unit manufactured housing is sold to a city, county, city and county, or any other public agency as permitted by Section 18015.7 of the Health and Safety, enter the name of the city, county, city and county, or other public agency.

(12) DEALER NUMBER: Enter the following:

(A) If the unit is sold to a dealer, enter the dealer's license number; or

(B) If the unit is sold to an out-of-state dealer, enter the alphabetical symbol for the state in which the dealer is located; or

(C) If a manufactured home, mobilehome, or multi-unit manufactured housing is sold to a licensed California general contractor, enter the word "contractor" or abbreviation "CONTR"; or

(D) If a manufactured home, mobilehome, or multi-unit manufactured housing is sold to a city, county, city and county, or any other public agency, enter the abbreviation "GOVT".

(13) DATE OF TRANSFER: Enter the date the unit was transferred to the dealer, contractor, or city, county, city and county, or public agency.

(14) DEALER ADDRESS: Enter the address of the dealer, contractor, or city, county, city and county, or public agency.

(15) INVENTORY CREDITOR NAME: Enter the name of the inventory credit or, if none, this line shall be left blank.

(16) INVENTORY CREDITOR ADDRESS: Enter the address of the inventory creditor, if any.

(17) SECTION: Enter the sequential number for each transportable section listed on the Manufacturer Certificate of Origin, beginning with the number 1.

(18) MANUFACTURER SERIAL NUMBER: Enter the complete serial number assigned and affixed to each transportable section.

(19) HCD INSIGNIA OR HUD LABEL NUMBER: Enter the complete HCD Insignia or HUD label number assigned and affixed to each transportable section.

(A) If a unit is sold to the federal government for use on federal land and does not have a HUD label or HCD insignia, the manufacturer shall designate each section with the term "federal" followed by a consecutive number, beginning with one, until each section is designated. Designations will read "federal 1" for the first section, "federal 2" for the second section, and so forth. The manufacturer shall note the designation for each section in the corresponding HUD label number box or HCD insignia box on the MCO.

(20) LENGTH (Inches): Enter the length, in inches, of each transportable section.

(21) WIDTH (Inches): Enter the width, in inches, of each transportable section.

(22) WEIGHT (Pounds): Enter the weight, in pounds, of each transportable section.

(23) TRANSPORTER NAME: Enter the name of the transporter.

(24) TRANSPORTER ADDRESS: Enter the address of the transporter.

(25) DESTINATION FOR UNIT DESCRIBED ABOVE: Enter the name of the party and the address to which the unit(s) is being delivered.

(26) CERTIFICATION: An authorized agent of the manufacturer must complete and sign certifying to the facts entered on the Manufacturer Certificate of Origin.

(g) Instructions for entering information on side two of the MCO, used to secure and release security interests in the unit, are as follows:

(1) Release of Security Interest: This designated area is completed by the inventory creditor to release its security interest by completing the following:

(A) the name of the inventory creditor;

(B) the signature of the authorized agent thereof; and

(C) the date of release of the inventory creditor's interest.

(2) First Assignment: This designated area is completed by a dealer who sells or otherwise transfers interest in the unit to another dealer.

(3) Second Assignment: This designated area is completed by a subsequent dealer who sells or otherwise transfers interest in the unit to another dealer.

(h) A manufacturer shall not be required to use an MCO for a manufactured home, mobilehome, or commercial coach manufactured prior to July 1, 1984, if a certificate of origin exists that was designed by the manufacturer and issued at the time the unit was completed and released.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18093, Health and Safety Code.

HISTORY

1. New article 6 (sections 5560–5561) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5561. How to Correct an Error and/or Prepare a Duplicate Replacement Manufacturer Certificate of Origin.

(a) In order to correct an error discovered on a completed, but undistributed, form HCD 483.0, the manufacturer shall make and initial the correction on each copy of the MCO.

(b) The manufacturer shall complete a replacement form HCD 483.0 when:

(1) a correction to a form HCD 483.0 cannot be made on each copy of the form;

(2) an original MCO has been lost;

(2) an original MCO is voided by the manufacturer due to errors; or

(3) an original MCO has been distributed and subsequently found to contain errors.

(c) In the right-hand corner of a blank form HCD 483.0, the manufacturer shall line through the preprinted number, check the box indicating duplicate MCO, and enter the number of the lost, voided, or incorrect MCO on the blank line. The form shall then be completed in its entirety.

(d) Copy 1 (white) of the newly-completed MCO shall be completed and submitted to the department with a written statement explaining why the replacement or duplicate MCO was required.

(e) All other copies of the newly-completed MCO shall be distributed to the original persons or entities who received the incorrect MCO.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18093, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 7. Dealer Sale Requirements

§ 5570. Dealer Escrow Responsibilities.

(a) A dealer shall open an escrow account for all sales transactions involving a manufactured home, mobilehome, or multi-unit manufactured housing, as specified in Section 18035 or 18035.2 of the Health and Safety Code. A dealer may authorize the escrow agent to act on its behalf to register and title the unit; however, the dealer remains responsible for the acts or omissions of its agent.

(b) In the event that the escrow agent submits an incomplete and/or untimely application for registration, the dealer shall be solely responsible for payment of administrative service fees, as specified in Section 18123.5 of the Health and Safety Code, and any penalties which accrue due to the late reporting, as specified in Sections 18114 and 18116 of the Health and Safety Code, and subsection 5660(c) of this chapter.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18035, 18035.2, 18059, 18080.5, 18114, 18116 and 18123.5, Health and Safety Code.

HISTORY

1. New article 7 (sections 5570-5579) and section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5571. Notification of Escrow Opening and Establishment of a 120-Day Moratorium on the Title Record.

(a) The escrow agent shall submit a notification of escrow opening to the department within three working days of receipt of:

(1) a notification from a dealer that the seller of a used manufactured home, mobilehome, or multi-unit manufactured housing has accepted an offer to purchase or lease with an option to purchase, and

(2) mutually-endorsed escrow instructions.

(b) The notification of escrow opening shall be signed under penalty of perjury by the escrow agent, and shall contain the following information:

(1) the unit(s) identifying information;

(2) the escrow identifying information; and

(3) the date escrow opened.

(c) Payment of the Escrow Opening Fee required by subsection 5660(j) shall be submitted with the notification of escrow opening.

(d) Once the notification of escrow opening and payment of the Escrow Opening Fee has been received, the department shall place a 120-day moratorium on the permanent title record of the identified unit, during which time no changes to the permanent titling record can occur, until the escrow has either been closed or canceled.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18035(d)(2) and 18100.5(b), Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5572. Extension of the 120-Day Escrow Moratorium.

(a) To extend a 120-day moratorium recorded on the permanent title record of a used manufactured home, mobilehome, or multi-unit manufactured housing, the escrow agent shall submit the following items to the department:

(1) A written request to extend the 120-day escrow moratorium, which states that the escrow agent has the mutual consent in writing of all parties to the escrow to such an extension.

(2) A photocopy of the letter sent by the department to the escrow agent, acknowledging receipt of the notification of escrow opening.

(3) If the original 120-day moratorium has expired, payment of the Escrow Opening Fee required by subsection 5660(j).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18035(g) and 18100.5(b), Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5573. Notification of Escrow Closing.

(a) When the sale or lease with an option to purchase of a used manufactured home, mobilehome, or multi-unit manufactured housing is completed and escrow has closed, the application for registration shall include a notification completed by the escrow agent that the escrow has closed.

(b) The notification of escrow closing shall be signed under penalty of perjury by the escrow agent, and shall contain the following information:

(1) the unit(s) identifying information;

(2) the escrow identifying information; and

(3) the date escrow closed.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18035(d)(2) and 18100.5(b)(1), Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5574. Notification of Escrow Cancellation.

(a) When the escrow has been canceled on the sale or lease with an option to purchase of a used manufactured home, mobilehome, or multi-unit manufactured housing, the escrow agent shall submit a notification of escrow cancellation to the department, signed under penalty of perjury by the escrow agent, which contains the following information:

(1) the unit(s) identifying information;

(2) the escrow identifying information; and

(3) the date escrow was canceled.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18035(d)(2) and 18100.5(b)(1), Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5575. Report of Sale or Lease Requirements.

(a) Upon being first licensed by the department, and thereafter at the request of a dealer, the department shall provide to the dealer one or more Report of Sale Books, appropriate to the types of units which the dealer is licensed to sell. The Report of Sale Books remain state property.

(b) A Report of Sale Book contains sequentially numbered forms, particular to one of three types of units:

(1) form HCD 480.1 (Rev. 05/07), Dealer Report of Sale or Lease for a New Manufactured Home or Multi-unit Manufactured Housing, as provided by the department.

(2) form HCD 480.2 (10/02), Dealer Report of Sale or Lease for a New Commercial Modular, as provided by the department.

(3) form HCD 480.3 (Rev. 05/07), Dealer Report of Sale or Lease for a Used Manufactured Home, Used Mobilehome, Used Multi-unit Manufactured Housing, or Used Commercial Modular, as provided by the department.

(c) Within 10 calendar days of the date of sale, rental, lease, lease with option to buy, or other transfer of a manufactured home, mobilehome,

multi-unit manufactured housing, or commercial modular, the dealer shall complete and submit to the department the applicable Report of Sale or Lease form, providing all information required by the form on the designated line(s) or in the designated areas, including:

(1) payment of the Dealer Report of Sale Filing Fee specified in subsection 5040(j), Title 25, Division 1, Chapter 4;

(2) the signature of the dealer or its agent; and

(3) the signature of the registered owner(s), except as provided in subsection (A), below.

(A) For a unit purchased by a federal entity, the dealer shall submit a copy of the purchase contract signed by the federal entity, in lieu of the signature of the agent of the federal entity.

(4) legal owner identifying information, if any.

(5) junior lienholder identifying information, if any.

(d) Report of Sale or Lease form HCD 480.1 for a new manufactured home or multi-unit manufactured housing and Report of Sale or Lease form HCD 480.3 for a used manufactured home, mobilehome, multi-unit manufactured housing, or commercial modular, have four-pressure sensitive copies, which the dealer shall distribute as follows:

(1) the original signature copy to the department, along with the required documents to record the transfer and the appropriate fees, within 10 calendar days from the date of sale, lease, or other transfer;

(2) copy two to the transferee (registered owner);

(3) except as indicated in subsection (5) below, copy three to the assessor's office in the county where the unit is located, within 10 calendar days from the date of sale, lease or other transfer; and

(4) copy four (the "Book Copy") to be retained by the dealer in the Report of Sale Book.

(5) In a transaction involving a used commercial modular, there is no need to provide a copy of the Report of Sale or Lease form to the county assessor's office. The dealer may destroy the assessor's copy of form HCD 480.3.

(e) Report of Sale or Lease form HCD 480.2 for a new commercial modular has three-pressure sensitive copies, and is distributed the same as in subsections (e)(1), (2), and (4), above.

(f) The dealer shall release interest on the titling document on the line indicated as the "release of interest" for the dealer, or shall submit a bill of sale releasing interest to the registered owner(s).

(g) Payment of Administrative Service Fees as specified in Section 18123.5 of the Health and Safety Code, when applicable.

(h) Payment of the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s).

(i) The Report of Sale or Lease forms HCD 480.1, HCD 480.2, and HCD 480.3 shall contain the dealer license number, original sale or lease price, installation foundation type, length, width, weight and the certification that all statements are true and correct.

(1) Forms HCD 480.2 and HCD 480.3 shall contain the Occupancy Group.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18012.3, 18035.26, 18054(b) and (d), 18070.1(c), 18080.5 and 18123.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).
2. New subsection (h) (replacing previously withdrawn subsection (h)) filed 4-1-98; operative 4-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).
3. Change without regulatory effect amending section (including removal of forms) filed 11-7-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 45).
4. Change without regulatory effect amending subsections (b)(1)-(c), (d), (d)(5)-(e) and (h) and amending NOTE filed 7-6-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 27).

§ 5576. How to Report a Voided or Lost Report of Sale or Lease Form.

(a) If the dealer discovers an error on a Report of Sale or Lease form prior to the distribution of the forms, the dealer shall mark "void" on all copies of the form.

(b) All copies of the voided form shall be submitted to the department's Occupational Licensing Section, P.O. Box 31, Sacramento, CA 95812-0031, except for the dealer's copy or "Book Copy", which shall be retained in the dealer's Report of Sale Book.

(c) If the dealer loses the department's copy of a completed Report of Sale or Lease form prior to its submission to the department, the dealer shall:

(1) prepare another Report of Sale or Lease form, indicating at the top of the form, "In lieu of the report of sale #————"; and

(2) submit to the department:

(A) the original signature copy of the second Report of Sale or Lease form and

(B) the transferee copy of the original Report of Sale or Lease form or a statement under penalty of perjury explaining why the transferee copy is unavailable.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18080.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5577. How to Correct Reporting the Wrong Unit as Having Been Sold.

(a) If a dealer submitted a Report of Sale or Lease which incorrectly identified a unit or units, the dealer shall promptly complete and submit to the department:

(1) The application for registration of the correct unit(s);

(2) A statement under penalty of perjury which contains the following information:

(A) the number of the Report of Sale or Lease form on which the incorrect information was submitted to the department;

(B) the date the Report of Sale or Lease form was transmitted to the department;

(C) the incorrect and the correct unit(s) identifying information;

(D) the registered owner(s) name; and

(E) the legal owner name.

(3) Payment of fees:

(A) Any fees submitted with the original application which were paid pursuant to Sections 18114, 18115, or 18116 of the Health and Safety Code that are not due shall be subject to refund.

(B) The dealer shall pay the Administrative Service Fee, if any, required by Section 18123.5 of the Health and Safety Code. For the purpose of this subsection, the delinquency of the corrected application shall be determined by calculating the number of days from the date of submission of the original completed application to the date of submission of the corrected completed application.

(C) The Dealer Report of Sale Filing Fee, as specified by subsection 5040(j), Title 25, Division 1, Chapter 4, shall not be required to be submitted with the application for the correct unit(s).

(b) If titling documents have already been issued by the department for the incorrect unit(s), in addition to the above requirements, the dealer must also submit:

(1) the Certificate of Title for the incorrectly reported unit(s);

(2) the Registration Card(s) for the incorrectly reported unit(s);

(3) the decal and year sticker(s) for the incorrectly reported unit(s); and

(4) the fees due as provided in sections 5520, 5521, and 5530, paid by the dealer and not the transferee.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080.5, 18114, 18115, 18116 and 18123.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5578.1. How to Report the Sale or Other Transfer of a Unit Destined for Out-of-State Delivery.

(a) For units sold which are being delivered out-of-state, the dealer shall complete and submit to the department:

(1) The appropriate Report of Sale or Lease form, noting: "FOR REGISTRATION OUT-OF-STATE" in capital letters on the form.

(2) A photocopy of the original MCO, if the unit is a new manufactured home, multi-unit manufactured housing, or commercial coach.

(3) Payment of the following fees:

(A) Administrative Service Fees, if applicable, as specified in Section 18123.5 of the Health and Safety Code.

(B) payment of the Dealer Report of Sale Filing Fee, as required by subsection 5040(j), Title 25, Division 1, Chapter 4.

(C) payment of the fees on used manufactured homes, mobilehomes, or commercial coaches

1. the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

2. all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18070.1(c), 18080.5(a) and (b), 18114, 18114.1, 18115, 18116 and 18123.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. Amendment filed 4-1-98; operative 4-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5578.2. How to Report the Sale or Other Transfer of a Used Unit Located Out-of-State.

(a) When a dealer sells or otherwise transfers interest in a unit that is located outside the State of California at the time of the sale or transfer, and requests California registration of that unit, the dealer shall comply with the requirements of Section 5530 and provide a statement signed under penalty of perjury which includes:

(1) the unit(s) identifying information; and

(2) a statement that the new registered owner is a California resident and provides his/her California mailing address; or

(3) a statement that the California title will be used to re-register the unit in another state.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080.5 and 18086, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5579. How to Report Sales or Transfers Between Dealers.

(a) When a dealer sells or transfers a new unit to another dealer, the dealer shown on the form HCD 483.0 ("MCO") in the designated area for "Name of Dealer or Transferee", shall complete the "First Assignment" area on side two of the MCO, and provide that document to the buying dealer.

(1) The dealer shown in the "First Assignment" area on the back of the MCO shall complete the "Second Assignment" area on side two of the MCO, if there is a subsequent transfer between dealers.

(2) In lieu of a selling dealer completing the appropriate "First Assignment" or "Second Assignment" area on side two of the MCO, the dealer shall complete and sign a Bill of Sale and provide that document to the buying dealer.

(b) When a dealer sells or transfers a used unit to another dealer, the selling dealer may submit a notice of transfer, as specified in Section 5532.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18012.3 and 18100.5(a), Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 8. Perfection and Release of Security Interests

§ 5580. How to Report a New Legal Owner on a Used Unit.

(a) Within 20 days of acquiring a security interest in a unit, the legal owner shall submit an application for registration to the department to report the interest of the legal owner, which shall include:

(1) The titling document, signed and completed as follows:

(A) the new legal owner's name and address entered on the designated line(s) or in the designated area for "Legal Owner", and

(B) the signature(s) of all registered owner(s) on the designated line(s) or in the designated area for the release of the legal owner; or

(C) a statement signed under penalty of perjury by all registered owner(s) that provides:

1. the unit(s) identifying information;

2. the registered owner identifying information;

3. the legal owner identifying information; and

4. an acknowledgment that the registered owner(s) are encumbering his/her/their title to record a lien in favor of the new legal owner.

(2) The last-issued registered owner(s) registration card of the unit.

(3) Payment of the Lien Registration Service Fee specified in subsection 5660(m).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18085 and 18100.5, Health and Safety Code.

HISTORY

1. New article 8 (sections 5580-5587) and section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5581. How to Report the Release of the Legal Owner's Interest.

(a) Within 20 days of satisfaction of the legal owner's security interest, the legal owner shall submit an application for registration to the department to report the release of interest of the legal owner, which shall include:

(1) The titling document signed by the legal owner on the designated line(s) or in the designated area for the release of the legal owner. Or,

(2) A statement signed by the legal owner under penalty of perjury, which contains the following information:

(A) the unit(s) identifying information;

(B) the registered owner identifying information;

(C) the legal owner identifying information; and

(D) a statement that:

1. the legal owner no longer holds a lien in the name of the registered owner;

2. that the lien against the described unit has been fully satisfied; and

3. that the lien has not been assigned to any other party. Or,

(3) If an escrow was used for the transaction, a statement of conditional lien release may be used, which includes:

(A) the unit(s) identifying information;

(B) the registered owner identifying information;

(C) the legal owner identifying information;

(D) escrow identifying information;

(E) a statement signed under penalty of perjury by the legal owner which specifies the conditions for satisfying the lien; and

(F) a statement signed under penalty of perjury by the escrow agent that:

1. all conditions required to satisfy the lien have been met;

2. the legal owner no longer holds a lien in the name of the registered owner; and

3. the lien has not been assigned to any other party.

(4) Payment of the Lien Registration Service fee specified in subsection 5660(m).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18035(d) and 18100.5(a), Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5582. How to Report the Assignment of the Legal Owner's Interest.

(a) Within 20 days of the assignment of interest by a legal owner, the assignee shall submit an application for registration to the department to report the assignment, which shall include:

(1) The titling document, completed as follows:

(A) the name and address of the new legal owner (assignee) on the designated lines or in the designated area for new legal owner; and

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(B) signed by the legal owner (assignor) on the designated lines or in the designated area for assignment of legal owner; or

(C) a statement, signed under penalty of perjury by the assignor, which includes the following information:

1. the unit(s) identifying information;
2. the registered owner identifying information;
3. legal owner identifying information of the assignor;
4. legal owner identifying information of the assignee;
5. the date of assignment; and
6. that the lien in the name of the assignor has been assigned to the assignee.

(2) If the titling document was issued by DMV or another state, a statement of lien assignment, as specified in subsection (a)(1)(C) above, shall be included.

(3) Payment of the Lien Registration Service Fee specified in subsection 5660(m).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18100.5 and 18105.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5583. How to Report the Retention of the Legal Owner's Interest.

(a) An application for registration to change the registered owner(s) of a unit, but which retains the legal owner's security interest in the unit, shall include:

(1) The titling document signed by the legal owner on the designated line(s) or in the designated area for the retention of legal owner; or

(2) a statement, signed under penalty of perjury by the legal owner, which includes:

(A) the unit(s) identifying information;

(B) the registered owner identifying information;

(C) the new registered owner identifying information;

(D) the legal owner identifying information; and

(E) an acknowledgment that the legal owner is retaining the security interest.

(3) The last-issued registered owner's registration card.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18100.5, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5584. How to Report a New Junior Lienholder.

(a) Within 20 days of acquiring a security interest in a unit, the junior lienholder shall submit an application for registration to the department to report the interest of the junior lienholder, which shall include:

(1) The last-issued registered owner's Registration Card.

(2) A statement signed under penalty of perjury by all registered owner(s) which includes:

(A) the unit(s) identifying information;

(B) the registered owner identifying information;

(C) the junior lienholder identifying information; and

(D) an acknowledgment that the junior lienholder's interest is to be secured against his/her/their unit.

(3) Payment of the Lien Registration Service Fee specified in subsection 5660(m).

(b) In lieu of the last-issued registered owner(s) Registration Card required by (a)(1) above, an application for Duplicate Registration Card, as specified in Section 5551, signed by the registered owner(s), shall be submitted, which includes:

(1) a statement signed under penalty of perjury by the junior lienholder that provides:

(A) the unit(s) identifying information;

(B) the registered owner identifying information;

(C) the junior lienholder's identifying information; and

(D) an acknowledgment that the junior lienholder is aware that:

1. the original registration card is not being submitted, and

2. the original registration card could be used to secure an additional lienholder, which could affect his or her junior lienholder's ranking.

(c) The department will assign a rank-order to a junior lienholder, based upon the date a complete application, including all appropriate documents and fees, was received by the department.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18005.3, 18080.7, 18085 and 18100.5(a), Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5585. How to Report the Release of a Junior Lienholder's Interest.

(a) Within 20 days of satisfaction of a junior lien, the junior lienholder shall submit an application for registration to the department to report the release of that junior lienholder's security interest, which shall include:

(1) The Junior Lienholder Registration Card issued by the department, signed by the junior lienholder on the designated line(s) or in the designated area to release the junior lienholder's interest; or

(2) a statement signed under penalty of perjury by the junior lienholder, which contains the following information:

(A) the unit(s) identifying information;

(B) the registered owner identifying information;

(C) the junior lienholder identifying information;

(D) why the Junior Lienholder Registration Card could not be submitted;

(E) the date of release of the junior lienholder's interest;

(F) that the junior lienholder no longer holds a lien in the name of the registered owner;

(G) that the lien against the described unit has been fully satisfied; and

(H) that the lien has not been assigned to any other party.

(3) Payment of the Lien Registration Service fee as specified in subsection 5660(m).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18035(d) and 18100.5(a), Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5586. Reporting the Assignment of Security Interest of the Junior Lienholder.

(a) Within 20 days of the assignment of interest by a junior lienholder, the assignee shall submit an application for registration to the department to report the assignment, which shall include:

(1) The Junior Lienholder Registration Card, completed as follows:

(A) the name and address of the new junior lienholder (assignee) on the designated line(s) or in the designated area for the new junior lienholder; and

(B) signed by the junior lienholder (assignor) on the designated line(s) or in the designated area for assignment of junior lienholder. Or,

(2) A statement, signed under penalty of perjury by the assignor, which includes the following information:

(A) the unit(s) identifying information;

(B) the registered owner identifying information;

(C) the junior lienholder identifying information of the assignor;

(D) the junior lienholder identifying information of the assignee;

(E) the date of assignment;

(F) why the Junior Lienholder Registration Card could not be submitted; and

(G) that the junior lien in the name of the assignor has been assigned to the assignee.

(3) Payment of the Lien Registration Service Fee as specified in subsection 5660(m).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18100.5 and 18105.5, Health and Safety Code.

History

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5587. Reporting the Retention of Interest of a Junior Lienholder.

(a) An application for registration to change the registered owner(s) of a unit, but which retains the junior lienholder's security interest in the unit, shall include:

(1) The Junior Lienholder's Registration Card, signed by the junior lienholder on the designated line(s) or in the designated area for retention of that junior lienholder; or,

(2) A statement signed under penalty of perjury by the junior lienholder, which includes:

(A) the unit(s) identifying information;

(B) the registered owner(s) name(s) and mailing address(es);

(C) the new registered owner(s) name(s) and mailing address(es);

(D) the junior lienholder's name and mailing address;

(E) why the Junior Lienholder Registration Card could not be submitted; and

(F) an acknowledgment that the junior lienholder is retaining the security interest.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18100.5, Health and Safety Code.

History

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 9. Foreclosures, Repossessions, Abandonments, Warehouseman's Liens, and Other Involuntary Transfers

§ 5590. How to Report a New Unit Repossessed from a Dealer's Inventory.

(a) Within 20 calendar days after repossession of a new unit from a dealers inventory, the repossessing creditor shall submit an application for registration to the department which shall include:

(1) A statement signed under penalty of perjury by the repossessing creditor which shall include:

(A) the unit identifying information;

(B) the name and address of the repossessing creditor;

(C) the date of the security agreement;

(D) the name and address of the defaulting party;

(E) the name and address of the public or private sale buyer;

(F) the date of sale to the public or private sale buyer; and

(G) that the described unit has been repossessed and the collateral disposed of in accordance with the provisions of the security agreement or conditional sale contract, applicable law, and Division 9 (commencing with section 9101) of the Commercial Code.

(2) Form HCD 483.0, Manufacturer's Certificate of Origin, version dated 7/97, signed on side two in the space designated for the "Release of Security Interest" by the same inventory creditor or lienholder shown on side one as the "Inventory Creditor."

(3) The security agreement, as defined in subdivision (*l*) of Section 9105 of the Commercial Code, if the repossessing creditor is not shown on the form HCD 483.0 (MCO) as the inventory creditor of the unit.

(4) A registration information document, as specified in Section 5541, completed and signed by:

(A) the repossessing creditor; or

(B) the public or private sale buyer identified in the repossessing creditor's statement required by (a)(1)(E), above.

(5) Payment of:

(A) the Foreclosure/Repossession Fee specified in subsection 5660(d);

(B) the Foreclosure/Repossession Penalty, if required, specified in subsection 5660(e);

(C) the Lien Registration Service Fee specified in subsection 5660(m) for any lienholder added to the title record;

(D) use tax, if any party other than the repossessing creditor is reported as the new registered owner, as required by section 5667; and

(E) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(F) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18037.5, 18070.1(c), 18100.5(d), 18114, 18114.1, 18115 and 18116, Health and Safety Code.

History

1. New article 9 (sections 5590–5597) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (a)(5)(E), relettering and amendment of former subsection (a)(5)(E) to new subsection (a)(5)(F), and incorporation and amendment of former subsections (a)(5)(E)1.–5. into new subsection (a)(5)(F) filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5591. How to Report a Used Unit Acquired Through Foreclosure or Repossession.

(a) Within 20 calendar days after foreclosure or repossession of a used unit by a legal owner or junior lienholder, the foreclosing or repossessing party shall submit an application for registration to the department which shall include:

(1) A statement signed under penalty of perjury by the foreclosing or repossessing creditor which shall include:

(A) the unit identifying information;

(B) the name and address of the foreclosing or repossessing creditor;

(C) the date of the security agreement;

(D) the name and address of the defaulting party;

(E) the name and address of the public or private sale buyer;

(F) the date of sale to the public or private sale buyer; and one of the following:

(G) if the unit is a commercial coach, that the unit was repossessed and the collateral disposed of in accordance with the provisions of the security agreement or conditional sale contract, applicable law, and Division 9 (commencing with section 9101) of the Commercial Code; or

(H) if the unit is not a commercial coach:

1. that the fair market value of the unit was $1,000 or more at the time the security interest was created; and

2. that the Notices of Default, Belief of Abandonment, Sale, and/or Distribution of Proceeds, were executed in the manner prescribed by Section 18037.5 of the Health and Safety Code; or

(I) if the unit is a manufactured home, mobilehome, multi–unit manufactured housing and the loan for the unit is part of a real property loan:

1. that the loan for the named defaulting party and the described unit includes the real property on which the unit is installed; and

2. the Notices of Default, Sale, and Distribution of Proceeds were executed in conformance with Section 18039.1 of the Health and Safety Code; or

(J) if the unit was located out of state and the foreclosure or repossession took place out of state:

1. the state in which the foreclosure or repossession took place; and

2. that the applicable laws pertaining to foreclosure or repossession in that jurisdiction were followed.

(2) The titling document, endorsed as specified in Sections 5580, 5581, and 5533, with the releasing signature of the legal owner.

(3) A copy of the security agreement, as defined in subdivision (*l*) of Section 9105 of the Commercial Code, if the foreclosing or repossessing lienholder is not recorded on the permanent title of the unit.

(4) If the foreclosing or repossessing creditor is a junior lienholder, that party's Junior Lienholder's Registration Card and that of any superior junior lienholder, endorsed as specified in Sections 5584 and 5585, with the releasing signature of the junior lienholder(s).

(5) Tax clearance certificate or conditional tax clearance certificate as required by section 5547.1.

(6) Payment of:

(A) the Transfer Fee specified in subsection 5660(b);

(B) the Transfer Penalty Fee, if required, specified in subsection 5660(c);

(C) the Foreclosure/Repossession Fee specified in subsection 5660(d);

(D) the Foreclosure/Repossession Penalty, if required, specified in subsection 5660(e);

(E) the Lien Registration Service Fee specified in subsection 5660(m) for each lienholder added, deleted, or changed;

(F) use tax, if a party other than the foreclosing or repossessing creditor is reported as the new registered owner, as specified in section 5667; and

(G) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(F) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18037.5, 18039.1, 18070.1(c), 18100.5(d), 18114, 18114.1, 18115 and 18116, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. Amendment filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5592. How to Report a Unit Acquired at a Public Sale Authorized by a Governmental Entity.

(a) Within 20 calendar days after acquiring a unit at a public sale authorized by the Office of the State Controller or by an agency of the federal government, the acquiring party shall submit an application for registration which shall include:

(1) The Certificate of Sale or other document evidencing the sale, issued by the State Controller's Office, the United States Government, or an agency thereof.

(A) If the name stated on the Certificate of Sale or other document evidencing the sale as the person from whom the unit was seized or forfeited is different than the name of the registered owner recorded on the permanent title record, a chain of ownership is required.

(2) The titling document, with the releasing signature of the legal owner, if any, recorded on the permanent title record; or

(3) The last–issued registered owner's registration card, if available.

(4) The Junior Lienholder Registration Card(s), if any, with the releasing signature(s) of any junior lienholder(s) recorded on the permanent title record.

(5) Tax clearance certificate or conditional tax clearance certificate as required by section 5547.1.

(6) Payment of:

(A) the Transfer Fee specified in subsection 5660(b);

(B) the Transfer Penalty Fee, if required, specified in subsection 5660(c);

(C) the Lien Registration Service Fee specified in subsection 5660(m) for each lienholder added, deleted, or changed;

(D) use tax, as required by section 5667; and

(E) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(F) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18100.5(d), 18070.1(c), 18114, 18114.1, 18115 and 18116, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (a)(5)(E), relettering and amendment of former subsection (a)(5)(E) to new subsection (a)(5)(F), and incorporation and amendment of former subsections (a)(5)(E)1.–5. into new subsection (a)(5)(F) filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5593. How to Report a Unit Acquired Through a Court Judgment.

(a) Within 20 calendar days after acquiring a unit as a result of a court judgment, the acquiring party shall submit an application for registration to the department which shall include:

(1) A certified copy of the filed judgment or court order which directs the disposition of the unit.

(A) If the court judgment does not contain a complete description of the unit, the application shall include a statement signed under penalty of perjury by the applicant which includes:

1. the unit identifying information.

2. that the unit awarded in the court order is the unit described in the application submitted to the department.

(2) The titling document, with a release signed by each party or entity recorded on the permanent title who is not a party to the judgment.

(3) The last–issued registered owner's registration card, if available.

(4) Tax clearance certificate or conditional tax clearance certificate as required by section 5547.1.

(5) Payment of:

(A) the Transfer Fee specified in subsection 5660(b);

(B) the Transfer Penalty Fee, if required, specified in subsection 5660(c);

(C) the Lien Registration Service Fee specified in subsection 5660(m) for each lienholder added, deleted, or changed; and

(D) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(E) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

(b) At least 61 calendar days after the judgment was filed, the applicant shall submit:

(1) a certification by the clerk of the court, dated at least 61 calendar days after the date judgment was filed, which states that no appeal from the judgment has been filed, and that the time for filing an appeal has now elapsed; or

(2) a statement signed under penalty of perjury by the applicant, executed at least 61 days after the date the judgment was filed, which includes:

(A) the unit identifying information; and

(B) that no appeal from the judgment has been filed or motion for new trial has been granted.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18100.5(d), 18070.1(c), 18114, 18114.1, 18115 and 18116, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (a)(5)(D), relettering and amendment of former subsection (a)(5)(D) to new subsection (a)(5)(E), and incorporation and amendment of former subsections (a)(5)(D)1.–5. into new subsection (a)(5)(E) filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5594. How to Report a Unit Acquired at an Attachment Sale.

(a) Within 20 calendar days after acquiring a unit at an attachment sale, the acquiring party shall submit an application for registration which shall include:

(1) The titling document, with the releasing signature of the legal owner, if any.

(2) The Junior Lienholder Registration Card(s), if any, with the releasing signature of the junior lienholder(s).

(3) The Certificate of Sale issued by the levying Officer which shall include:

(A) the unit identifying information; and

(B) the names and addresses of the purchaser, the plaintiff/judgment creditor, and the defendant/judgment debtor.

1. If the name of the defendant/judgment debtor is not the same as the name of the registered owner recorded on the permanent title record, a chain of ownership shall be submitted.

(4) The last-issued registered owner's registration card, if available.

(5) Tax clearance certificate or conditional tax clearance certificate as required by section 5547.1.

(6) Payment of:

(A) the Transfer Fee specified in subsection 5660(b);

(B) the Transfer Penalty Fee, if required, specified in subsection 5660(c);

(C) the Lien Registration Service Fee specified in subsection 5660(m) for each lienholder added, deleted, or changed;

(D) use tax, as required by section 5667; and

(E) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s),

(F) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18100.5(d), 18070.1(c), 18114, 18114.1, 18115 and 18116, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (a)(5)(E), relettering and amendment of former subsection (a)(5)(E) to new subsection (a)(5)(F), and incorporation and amendment of former subsections (a)(5)(E)1.-5. into new subsection (a)(5)(F) filed 4-1-98; operative 4-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5595. How to File a Judgment Lien on a Manufactured Home, Mobilehome, or Multi-Unit Manufactured Housing.

(a) The department shall record a judgment lien against a manufactured home, mobilehome, or multi-unit manufactured housing in favor of a mobilehome park owner upon submittal of:

(1) A certified copy of:

(A) the money judgment filed in favor of the mobilehome park against all registered owner(s) of the unit for unpaid rent; or

(B) the abstract of the money judgment.

(C) The money judgment or abstract shall be accepted after the following appeal time periods have elapsed, without an appeal having been filed:

1. 180 days from the date the judgment was rendered and filed with the court; or

2. 61 days since the Notice of Entry of Judgment was mailed to the judgment debtor, as evidenced by a filed Proof of Service.

(2) A chain of ownership, if the judgment debtor is not the registered owner of record.

(3) A statement signed under penalty of perjury by the mobilehome park owner which includes:

(A) the unit identifying information;

(B) that the mobilehome park has not received any notice that an appeal has been filed against the money judgment.

(4) A registration information document, as specified in subsection 5541(b), which includes:

(A) if there is no legal owner recorded on the permanent title record, the name and address of the mobilehome park entered in the area designated for the "Legal owner;" or

(B) if there is a legal owner recorded on the permanent title record, the name and address of the mobilehome park entered in the area designated for the "Junior lienholder."

(5) Payment of:

(A) the Lien Registration Service Fee specified in subsection 5660(m);

(B) applicable fees and penalties specified in Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080.9, 18114, 18114.1, 18115 and 18116, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5596. How to Report a Unit Acquired at a Public Sale of an Abandoned Manufactured Home, Mobilehome, or Multi-Unit Manufactured Housing Located in a Mobilehome Park.

(a) Within 20 calendar days after acquiring an abandoned manufactured home, mobilehome, or multi-unit manufactured housing located in a mobilehome park at a public sale, the acquiring party shall submit an application for registration to the department which shall include:

(1) A statement signed under penalty of perjury by the mobilehome park owner, which shall include:

(A) the unit identifying information;

(B) the names and addresses of the judgment creditor (the mobilehome park) and the judgment debtor(s) (the registered owner(s));

(C) the situs address of the unit;

(D) the name and address of the public sale buyer(s);

(E) the date of the pubic sale;

(F) that the mobilehome park/judgment creditor has complied with all the terms and conditions outlined in the Civil Code and Code of Civil Procedures for the sale of the unit; and

(2) A certified copy of the judgment of abandonment issued against the unit by a court of competent jurisdiction.

(3) If the new registered owner is different than the public sale buyer, a Bill of Sale from the public sale buyer to the new registered owner.

(4) A registration information document, as specified in subsection 5541(b), completed and signed by the public sale buyer.

(5) Tax clearance certificate or conditional tax clearance certificate as required by section 5547.1.

(6) Payment of:

(A) the Transfer Fee specified in subsection 5660(b);

(B) the Transfer Fee Penalty, if required, specified in subsection 5660(c);

(C) the Lien Registration Service Fee specified in subsection 5660(m) for each lienholder added, deleted, or changed;

(D) use tax, as required by section 5667;

1. If the mobilehome park is the public sale buyer, use tax is based on the value guide in effect at the time of the public sale, or the park may submit a BT111 form from the Board of Equalization.

(E) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(F) all fees and penalties due and payable pursuant to Section 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 798.61, Civil Code; and Sections 18070.1(c), 18075.5, 18100.5(d), 18114, 18114.1, 18115 and 18116, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (a)(5)(E), relettering and amendment of former subsection (a)(5)(E) to new subsection (a)(5)(F), and incorporation and amendment of former subsections (a)(5)(E)1.-5. into new subsection (a)(5)(F) filed 4-1-98; operative 4-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5597. How to Report a Unit Acquired at a Warehouseman's Lien Sale.

(a) Within 20 calendar days after acquiring a manufactured home, mobilehome, or multi-unit manufactured housing at a sale held by a mobilehome park to enforce a warehouseman's lien, the acquiring party shall submit an application for registration to the department which shall include:

(1) a statement signed under penalty of perjury by the mobilehome park owner which shall include:

(A) the unit identifying information;

(B) the name and address of the mobilehome park;

(C) the name and address of each registered owner;

(D) the situs address of the unit;

(E) the legal owner and junior lienholder(s) name(s) and address(es), if any;

(F) the date the termination notice was mailed to the registered owner(s).

(G) the name and address of the public or private sale buyer.

(H) the date of the public or private sale.

(I) that the mobilehome park notified the legal owner and all junior lienholders (if any) of the action, in accordance with Section 798.56a of the Civil Code and Section 7210 of the Commercial Code; and

(J) that all the terms and conditions outlined in the Civil Code and Commercial Code for the sale of the unit have been met.

(2) The titling document.

(3) The last–issued registered owner's registration card, if available.

(4) If the new registered owner is a different person than the buyer at the public or private sale, a Bill of Sale from the buyer to the current owner.

(5) Payment of:

(A) the Transfer Fee specified in subsection 5660(b);

(B) the Transfer Fee Penalty, if required, specified in subsection 5660(c);

(C) the Lien Registration Service Fee specified in subsection 5660(m) for each lienholder added, deleted, or changed;

(D) use tax, as required by section 5667;

1. If the mobilehome park is the public sale buyer, use tax is based on the value guide in effect at the time of the public sale, or the park may submit a BT111 form from the Board of Equalization. And,

(E) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(F) all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 798.56a(e), Civil Code; and Sections 18070.1(c), 18075.5, 18100.5(d), 18102.5, 18114, 18114.1, 18115, 18116 and 18123, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (a)(5)(E), relettering and amendment of former subsection (a)(5)(E) to new subsection (a)(5)(F), and incorporation and amendment of former subsections (a)(5)(E)1.–5. into new subsection (a)(5)(F) filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

Article 10. Commercial Coach Seizure and Sale to Satisfy a Lien in Favor of the State of California

§ 5600. Requirements to Request a Hearing to Contest the Existence or Amount of the State Lien.

(a) The registered owner or any person receiving notice from the department, of the department's intention to seize and sell a commercial coach in order to satisfy a lien in favor of the State for nonpayment of registration fees and/or license fees and corresponding penalties, may request a hearing to contest the existence or the amount of the lien.

(b) The registered owner or person receiving the notice may only request a hearing on or before the date stated in the department's notice as the last day a request for a hearing can be received.

(c) The request for a hearing shall be in written form and shall contain the following information:

(1) the name and mailing address of the registered owner or person requesting the hearing,

(2) the county in which the person or registered owner resides, and

(3) a brief statement giving the grounds for the request.

(d) The request shall be submitted to the department in person or by mail to PO Box 1407, Sacramento, CA 95812–1407.

(e) The date of receipt shall be the date the written request is received by the department, by mail or in person.

(f) Upon receipt of a timely request, the department shall schedule a hearing and shall provide written notice of the time and place of the hearing to the person, or registered owner and legal owners, and any other person who claims to have an interest in the commercial coach. This notice shall be mailed no later than ten days prior to the date set by the department for the hearing.

(g) Should the person or registered owner fail to appear at the time and place scheduled for the hearing, the department shall dismiss the request and continue with the seizure and sale process.

(h) All interested parties shall be notified by registered mail of the Director's decision regarding the findings of the hearing, and the department shall insure compliance with the findings.

(i) If a lien no longer exists as a result of the decision, the department will discontinue the seizure and sale process.

(j) The person requesting the hearing or the registered owner shall have ten days from the date of the notification from the department of the Director's decision pursuant to subsection (h) to submit the fees and/or penalties that are stated in the notice to be due and payable if:

(1) The amount of the lien is reduced as a result of the decision, or

(2) the lien is upheld as a result of the hearing.

(k) In the event the payment is not made in the time specified in subsection (j), the department shall continue with the seizure and sale process.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18116.2, Health and Safety Code.

HISTORY

1. New article 10 (sections 5600–5601) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5601. Registration of a Commercial Coach Acquired as a Result of Seizure and Sale.

(a) In addition to the applicable requirements of Articles 2 and 5 of this chapter, an application to register a commercial coach purchased as a result of seizure and sale by the department for payment of a State lien, shall comply with the requirements of this section:

(b) The application shall include the titling document, if available.

(c) The applicant shall submit an registration information document as specified in subsection 5541(b).

(d) The application shall include the last issued registered owner's registration card, if available.

(e) The application shall include a bill of sale completed by the department and provided to the buyer.

(f) The application shall include all fees due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code, for the current registration year, if due. All fees due pursuant to 18116(d) of the Health and Safety code, shall be payable per transportable section.

(g) The application shall include payment for the Lien Registration Service Fee required by subsection 5660(m).

(h) The application shall include payment for the Transfer Fee as required by subsection 5660(b).

(i) The application shall include payment for the Transfer Penalty Fee required by subsection 5660(c), when applicable.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18100.5(d), 18114, 18114.1, 18115 and 18116, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 11. Foundation Systems

§ 5610. How to Report the Installation of a New Unit onto a Foundation System.

(a) Within 20 calendar days after the date of sale of a new manufactured home, mobilehome, multi–unit manufactured housing, or commer-

cial coach which has been installed on a foundation system in compliance with the requirements of Section 18551 of the Health and Safety Code, the licensed California general building contractor, city, county, or public agency which purchased the unit directly from a manufacturer, shall submit an application to the department which includes:

(1) The original copy of form HCD 483.0, Manufacturer Certificate of Origin ("MCO"), version dated 7/97, completed as follows:

(A) signed by the inventory creditor or lienholder, if any, to release its security interest; and

(B) the name(s) and address(es) of the buyer(s) and lienholder(s), if any, in the first assignment section.

(C) If the original MCO is not available, a statement under penalty of perjury by the applicant that the MCO was surrendered to the local city or county building department at the time of the installation onto the foundation system.

(2) A copy of the recorded acknowledgment prepared by the enforcement agency in which the installation occurred, which indicates the completion of installation onto a foundation system in compliance with Health and Safety Code section 18551.

(A) If the document specified in (a)(2) is unavailable, a statement, signed under penalty of perjury by the applicant, which includes:

1. the unit identifying information; and

2. that the unit has been installed on a foundation system in compliance with he requirements of Section 18551 of the Health and Safety Code.

(3) Payment of:

(A) Use Tax, as required by section 5667.

(B) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(b) Within 10 calendar days after the date of sale of a unit which was installed on a permanent foundation through a dealer, the dealer shall submit an application to the department which includes:

(1) the dealer shall meet the requirements of Section 5575.

(2) the original MCO as specified in subsection (a)(1); or

(A) a statement, signed under penalty of perjury by the dealer, that provides:

1. the unit identifying information; and

2. that the MCO is in an open escrow; for the sale of that unit.

(B) If the procedure in (2)(A) was utilized, within 10 days after that escrow has closed, the dealer shall submit:

1. the MCO; and

2. a statement signed under penalty of perjury by the escrow agent certifying the date escrow closed.

(3) A copy of the recorded acknowledgment prepared by the enforcement agency in which the installation occurred, which indicates the completion of installation onto a foundation system in compliance with Health and Safety Code section 18551.

(A) If the document specified in (a)(2) is unavailable, a statement, signed under penalty of perjury by the dealer, which includes:

1. the unit identifying information; and

2. that the unit has been installed on a foundation system in compliance with he requirements of Section 18551 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18062.9, 18070.1(c), 18076(b), 18080.5, 18085, 18123 and 18551(d), Health and Safety Code.

HISTORY

1. New article 11 (sections 5610–5614) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (a)(3)(B) (replacing previously withdrawn subsection (a)(3)(B)) filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5611. How to Report the Sale and Installation of a Used Unit on to a Foundation System for Sales by or Through a Dealer.

(a) To cancel the title and registration of a used manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach now placed on a foundation system pursuant to Health and Safety Code section 18551, within 10 calendar days after the date of sale or Lease, the dealer shall submit an application to the department which shall include:

(1) the dealer shall meet the requirements as specified in section 5575.

(2) the titling document, endorsed as specified in Sections 5533, 5581, 5580, and 5583 as appropriate;

(3) the last–issued registered owner's registration card;

(4) the Junior Lienholder's Registration Card(s), if any, endorsed as specified in Sections 5585 and 5584, as appropriate.

(5) the license plate(s) or decal(s) for the unit(s); or

(A) a statement signed under penalty of perjury by the applicant stating that the license plate(s) or decal(s) have been destroyed.

(6) a copy of a recorded acknowledgment prepared by the enforcement agency where the installation occurred, indicating the completion of the installation on the foundation system in compliance with the requirements of Section 18551 of the Health and Safety Code; or

(A) a statement, signed under penalty of perjury by the applicant, that the unit has been installed on a foundation system in compliance with the requirements of Section 18551 of the Health and Safety Code; and

(7) If the unit was installed on a foundation after the date the annual renewal fees became due, the application shall include applicable fees and penalties specified in Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18080.5, 18114, 18114.1, 18115, 18116 and 18551, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5612. Reporting the Sale and/or Installation of a Used Unit on a Foundation System Not Sold Through or by a Dealer.

(a) To cancel the title and registration of a used manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach now placed on a foundation system pursuant to Health and Safety Code section 18551, within 20 calendar days after the date the installation is complete, the registered owner shall submit an application to the department which shall include:

(1) the titling document, endorsed as specified in Sections 5533, 5581, 5580, and 5583 as appropriate.

(2) the last–issued registered owner's registration card; and

(3) the Junior Lienholder's Registration Card(s), if any, endorsed as specified in Sections 5585 and 5584 as appropriate.

(A) In lieu of items (1), (2), and (3), above, a statement, signed under penalty of perjury by the applicant, that at the time of the installation on the foundation system, the specified titling documents were surrendered to the local city or county building department.

(4) the license plate(s) or decal(s) for the unit(s); or

(A) a statement signed under penalty of perjury by the applicant stating that the license plate(s) or decal(s) have been destroyed.

(5) a copy of a recorded acknowledgment prepared by the enforcement agency where the installation occurred, indicating the completion of the installation on the foundation system in compliance with the requirements of Section 18551 of the Health and Safety Code; or

(A) a statement, signed under penalty of perjury by the applicant, that the unit has been installed on a foundation system in compliance with the requirements of Section 18551 of the Health and Safety Code; and

(6) Payment of:

(A) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(B) if the unit was installed on a foundation after the date the annual renewal fees became due, the application shall include applicable fees and penalties specified in Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18075.5, 18114, 18114.1, 18115, 18116 and 18551, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (a)(6)(A) (replacing previously withdrawn subsection (a)(6)(A)) filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5613. Reporting the Conversion of a Manufactured Home, Mobilehome, or Multi–Unit Manufactured Housing to a Fixture and Improvement to the Underlying Real Property in a Mobilehome Park Converted or Converting to a Resident–Owned Subdivision, Cooperative, Condominium, or Nonprofit Corporation.

(a) To cancel the title and registration of a used manufactured home, mobilehome, or multi–unit manufactured housing located in a mobilehome park which is being voluntarily converted to a resident–owned subdivision, cooperative, condominium, or nonprofit corporation pursuant to Health and Safety Code section 18555, upon the close of escrow, the escrow agent shall submit an application to the department which shall include:

(1) the titling document.

(2) the last–issued registered owner's registration card.

(3) the Junior Lienholder's Registration Card(s).

(4) the written consent of the legal owner and each junior lienholder to the conversion of the unit as a fixture and improvement to the underlying real property;

(5) the license plate(s) or decal(s) for the unit(s); or

(A) a statement signed under penalty of perjury by the registered owner that the license plate(s) or decal(s) have been destroyed.

(6) a copy of a recorded acknowledgment prepared by the enforcement agency where the installation occurred, indicating the completion of the conversion of the unit to a fixture and improvement to the underlying real property, in compliance with the requirements of Section 18555 of the Health and Safety Code.

(7) If the unit is subject to local property taxation, a tax clearance certificate or conditional tax clearance certificate.

(8) If the unit was converted to a fixture and improvement to the underlying real property after the date the annual renewal fees became due, the application shall include payment of applicable fees and penalties specified in Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18075.5, 18114, 18114.1, 18115, 18116 and 18555, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5614. How to Register a Unit Removed from a Foundation System or from the Real Property to Which it Is a Fixture and Improvement.

(a) Within 20 calendar days after a manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach has been removed from the foundation system pursuant to Health and Safety Code Section 18551, or the underlying real property to which it had been a fixture and improvement, pursuant to Health and Safety Code Section 18555, the registered owner shall submit an application for registration to the department which shall include:

(1) A registration information document required by subsection 5541(b), including the name(s) and address(es) of the proposed registered owner(s) and any person or entity with a security interest in the property.

(2) If the department's permanent title record reflect any party other than the current applicant as owner, one of the following items as evidence of ownership shall be submitted:

(A) A copy of the grant deed which shows the current owner as owner of the real property, with improvements, from which the manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach is being removed, or

(B) A copy of the original sales contract which shows the present owner as the purchaser, or

(C) A bill of sale from the owner as documented in subsections (a)(1) or (2) through each subsequent purchaser to the present owner, if a sale has occurred, or

(D) A Bill of sale from the last owner recorded on the department's permanent title record through each subsequent owner to the present owner, or

(E) A title report issued by an escrow/title company, which shows the registered owner as the owner of the real property, with improvements, from which the manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach is being removed, or

(F) In lieu of evidence acceptable to the department, the application shall include a properly executed surety bond which meets the requirements of subsection 5547.

(3) a written statement from each person or entity with a title to or security interest in the real property upon which the unit was installed, that provides consent for the removal of the manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach.

(4) a copy of the notification provided to the county assessor thirty days prior to the removal of the manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach, as required by Health and Safety Code Section 18551(g) or 18555(h).

(5) Payment of:

(A) a manufactured home, mobilehome, multi–unit manufactured housing, removed from a foundation system or from the real property to which it has become a fixture and improvement, shall be subject to local property taxation and shall include the fees as required by Sections 18114 and 18114.1 of the Health and Safety Code.

(B) a commercial coach removed from a foundation system shall be subject to annual license fees and shall include all fees due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

(C) payment for a Lien Registration Service fee for each lienholder to be recorded, as required by Subsection 5660(m).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18075.5(b), 18114, 18114.1, 18115, 18116, 18551(e) and (g) and 18555, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 12. Local Property Taxation and Relief

§ 5620. Voluntary Transfer to Local Property Taxation.

(a) In addition to the applicable requirements of Articles 4 or 7 of this chapter, an application for registration of a manufactured home or mobilehome which includes a request to transfer the manufactured home or mobilehome from in lieu taxation to local property taxation, shall comply with the requirements of this section. Each application shall include:

(b) the titling document, endorsed as specified is Sections 5533, 5580, 5581, 5583, as appropriate.

(c) the last issued registered owner's registration card.

(d) a request to voluntary transfer the manufactured home or mobilehome to local property taxation, which contains the following information:

(1) the decal or license number of the unit.

(2) the serial number of the unit.

(3) the trade name of the unit.

(4) a statement acknowledging the following:

(A) the transfer to local property taxation is final.

(B) all entitlement to petition for reinstatement to the annual vehicle license fee taxation system is waived.

(C) no refund will be issued for any annual vehicle license fees paid.

(5) a statement signed and dated by all registered, legal, and junior lienholders, except as provided in subsections (e) and (f), requesting that the department transfer the manufactured home or mobilehome for the annual vehicle license fee taxation system to local property taxation.

(6) a statement signed and dated by all new registered owner(s), legal owner(s), and junior lienholders stating the following:

(A) the provisions for voluntary transfer to local property taxation is final and reinstatement to the annual vehicle license fee taxation system will not be granted.

(B) Use tax will be due if the request for voluntary transfer to local property tax occurs on or after the date of purchase.

(e) If ownership is recorded as "or," tenants–in–common, or as tenants–in–common with the names joined by "or" and if the signature of one of the owners is not available, the registered owner shall submit a statement that includes the following information:

(A) The decal or license number.

(B) The serial number(s).

(C) The manufacturer's trade name, if any;

(D) A statement certifying that the missing signature is for a person who is deceased, or for a person who no longer has an interest in the manufactured home or mobilehome and but cannot be located to sign documents.

(f) If the lien of the legal owner and/or the junior lienholder are paid in full prior to the date the registered owner requests transfer to local property taxation, and the legal owner and/or junior lienholder has released interest in the unit, the signatures of the legal owner and/or junior lienholder of record are not required. The registered owner shall submit statement certifying that the legal owner's and/or junior lienholder's lien was satisfied prior to the date of request for voluntary conversion to local property taxation.

(g) The application shall include payment of all fees due and payable pursuant to:

(1) the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(2) all fees due and payable pursuant to Section 18114(b) and (d) of the Health and Safety Code, if applicable,

(3) all fees due and payable pursuant to Section 18114.1 of the Health and Safety Code, if applicable.

(h) If the unit is not currently registered as of the date of a request to transfer to local property taxation, all annual renewal fees and penalties as specified in Sections 18114, 18114.1, 18115, and 18116 shall be paid before the department will process the request. The date of transfer to local property taxation will be evidenced by the latest date as required in subsection (d)(5)

(i) If the application includes a change in the registered owner, the application shall include payment for the Transfer Fee as required by subsection 5660(b).

(j) The application shall include payment for the Transfer Fee Penalty, when applicable, as specified in Subsection 5660(c).

(k) The application shall include payment for the Lien Registration Service Fee specified in Subsection 5660(m).

(*l*) The application shall include payment for use tax if the transfer to local property taxation occurs after the date of sale. The date of transfer to local property taxation will be evidenced by the latest date as required in subsection (d)(5)

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18070.1(c), 18114, 18114.1, 18115, 18116 and 18119, Health and Safety Code.

HISTORY

1. New article 12 (sections 5620–5623) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. Amendment filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5621. Requirements for Transferring Interest When the Department's Records Reflect a Property Tax Postponement Moratorium.

(a) In addition to the applicable requirements of Article 4, Registration Requirements, of this chapter, an application for registration of a manufactured home, mobilehome, or multi–unit manufactured housing to transfer the interest of a registered owner or to transfer or create a security interest in a manufactured home, mobilehome, or multi–unit manufactured housing which is subject to a moratorium for postponement of local property taxes, the applicant shall provide the department with one of the following from the State Controller's Office,

(1) a written authorization allowing the change, or

(2) a completed Release of Lien form.

(b) If the completed Release of Lien form is submitted as specified in subsection (a)(2), payment of six dollars for the Release of Controller Lien Fee shall be submitted with the application.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18079, Health and Safety Code; Sections 16182 and 16186, Government Code; and Section 20639.6, Revenue and Taxation Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5622. Removal of the Property Tax Moratorium.

In order to remove the moratorium recorded on the title of a manufactured home, mobilehome, or multi–unit manufactured housing by a Notice of Lien, the applicant shall provide the department with the following:

(a) A Release of Lien form issued by the State Controller's Office, and

(b) Payment of six dollars for the Release of Controller Lien Fee.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18079, Health and Safety Code; Sections 16182 and 16186, Government Code; and Section 20639.6, Revenue and Taxation Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5623. Requirements for Applying for Disaster Tax Relief.

(a) In addition to the application requirements of Article 4, Registration Requirements, of this chapter, an application for registration for a manufactured home, mobilehome, or multi–unit manufactured housing which was obtained to replace a manufactured home, mobilehome, multi–unit manufactured housing destroyed on or after January 1, 1982 and for which the owner is claiming relief from local property taxation or vehicle license fees, shall meet the requirements of this section.

(b) The application shall include a request for disaster tax relief which contains the following information:

(1) A description of the destroyed unit by trade name, year model, decal or license number, serial number(s), and length and width.

(2) A declaration stating that the unit was located in an area declared by the Governor of the State of California as being a disaster area, that the unit was destroyed as a result of the recognized disaster, and that the unit was damaged to an extent that the cost of repair exceeds the value of the unit prior to its destruction, or has been declared a total loss for insurance purposes.

(3) The location address of the destroyed unit, including the county.

(4) The date of destruction.

(5) The cause of destruction.

(6) A certification signed under penalty of perjury by each registered owner.

(c) The application shall contain written verification from the county assessor's office indicating if the replacement unit is comparable in size, utility and location to the destroyed unit and if the owner is eligible for the disaster tax relief provided by Section 172.1 of the Revenue and Taxation Coed.

(d) The department shall upon receipt of the information required by subsections (b) and (c) provide a letter instructing the registered owner on how to apply for the disaster tax relief.

(e) The applicant shall provide the County Assessor's Office with the information provided pursuant to subsection (d) to obtain the disaster tax relief, if the replacement unit is subject to local property taxation.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code; and Section 172.1, Revenue and Taxation Code. Reference: Section 18075.5, Health and Safety Code; and Section 172.1, Revenue and Taxation Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 13. Salvage Reporting Requirements

§ 5630. Reporting a Unit as Salvage.

(a) An application submitted to request the designation of a manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home as salvage, that is damaged and unfit for human habitation or that has been destroyed, shall meet the requirements of this section.

(b) If a manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home was sold prior to the date of damage or destruction by other than a dealer and not reported to the department, the application shall also meet the applicable registration requirements pursuant to Article 3 and 4 of this chapter.

(c) If a manufactured home, mobilehome, multi–unit manufactured housing, or commercial coach, was sold by a dealer prior to the date of damage or destruction and not reported to the department, the application shall also meet the applicable registration requirements pursuant to Articles 3, 4 and Article 7 of this chapter.

(d) Each application shall include the titling document.

(e) If the application is to report the salvage of a new, unregistered unit, the application shall include the original (pink) copy of form HCD 483.0, Manufacturer Certificate of Origin, dated 7/97.

(f) The application shall include all Junior Lienholder Registration Cards, with each registration card.

(g) The application shall include the last issued registered owner's registration card.

(h) The application shall include each HUD label or HCD insignia assigned to the manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, or truck camper. If the labels or insignia are unavailable due to their destruction, loss, or surrender to the department, the applicant shall provide this information as required in subsection (i).

(i) The application shall include a statement, signed under penalty of perjury, that the following information:

(1) The unit identifying information.

(2) A statement certifying the following information:

(A) the date the unit was destroyed and the cause of the destruction.

(B) the license plate(s) or decal(s) has been destroyed.

(C) the HUD label(s) or HCD insignia has been surrendered to the department, lost, or destroyed.

(j) If the manufactured home, mobilehome, or commercial coach is destroyed or damaged after the date the annual renewal fees become due, the application shall include payment for fees and penalties as specified in Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

(k) If the application includes a change in ownership not recorded with the department prior to the date of destruction, the following applicable fees shall be submitted with the application:

(1) Payment for the Transfer Fee as required by subsection 5660(b), and

(2) Payment for a Lien Registration Service Fee as required by subsection 5660(m), and

(3) Payment of the use tax as specified in Section 5667.

(4) the Manufactured Home Recovery Fund Fee as required by subsection 5660(s);

(l) If the application includes a sale by a California licensed dealer not recorded with the department prior to the date of destruction, the following fees apply:

(1) Payment of the Dealer Report of Sale filing fee as required by Title 25, Division 1, Chapter 4, subsection 5040(j).

(2) Payment Administrative Service Fees as specified in Section 18123.5 of the Health and Safety Code shall also be submitted with the application, when applicable.

(m) If the registration of the manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home has been designated as salvage pursuant to this section, neither a titling document nor a registration card shall be issued unless the unit is approved for occupancy pursuant to the requirements of Section 5631.

(n) Upon approval of the application to designate a manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home for salvage, the department shall provide acknowledgment to the registered owner and legal owner(s), if any, that the application has been approved to report the unit as salvage.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18026, 18070.1(c), 18075.5, 18114, 18114.1, 18115, 18116, 18123.5 and 18550(d)(e), Health and Safety Code.

HISTORY

1. New article 13 (sections 5630–5631) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (k)(4) (replacing previously withdrawn subsection (k)(4)) filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5631. Registration of a Unit Previously Reported as Salvage.

(a) An application for registration of a manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home previously designated as salvage shall meet the requirements of this section.

(b) The application and fees shall be submitted within twenty days from the date the insignia is issued for the reconstructed unit. The application shall also meet the applicable registration requirements pursuant to Article 2 and Article 5 of this chapter.

(c) A reconstructed manufactured home, mobilehome, or commercial coach that was subject to an annual vehicle license fee prior to being designated as salvage, shall be subject to an annual vehicle license fee upon the date the insignia are issued.

(d) A reconstructed manufactured home, mobilehome, multi–unit manufactured housing, or floating home that was subject to local property taxation prior to being designated as salvage shall be subject to local property taxation upon the date the insignia are issued.

(e) The application shall include a registration information document as required in subsection 5541(b), completed and signed by each registered owner.

(f) The application shall include the acknowledgment provided by the department at the time the manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home was designated as salvage, as specified in subsection 5630(n).

(g) In lieu of the document required by subsection (f), the applicant shall submit a statement, signed under penalty of perjury that includes the following information:

(1) The unit identifying information.

(2) A statement completed by the party who has personal knowledge, certifying the disposition of the acknowledgment specified in subsection 5630(n).

(h) An application submitted for a manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, or truck camper shall include a copy an inspection report, issued by either the department's Northern Area Office or the department's Southern Area Office,

which indicates that the reconstructed unit complies with Health and Safety Code standards and has been issued an insignia.

(i) In lieu of the inspection report specified in subsection (h), one of the following shall be submitted:

(1) An application submitted for a manufactured home, mobilehome, multi-unit manufactured housing, commercial coach, or truck camper shall include a copy of the issuance letter sent to the applicant by the department's Manufactured Housing Section with the replacement insignia.

(2) An application for a floating home shall include a copy documentation issued by the local enforcement agency that indicates that the floating home is in compliance with all applicable Health and Safety Code standards.

(j) The application shall include all bills of sale necessary to document the chain of ownership of the reconstructed unit from the owner of the salvage unit shown on the receipt included pursuant to subsection (f) through to any subsequent owners and including the registered owner shown on the application for registration.

(k) The application shall include payment of the Manufactured Home Recovery Fund Fee as specified in subsection 5660(s);

(l) Payment of all fees and penalties due and payable pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

(m) The application shall include payment for a Lien Registration Service Fee as required by Subsection 5660(m).

(m) If the registered owner shown on the application for registration of the reconstructed unit purchased the unit following the completion of the reconstruction, the application shall include,

(1) Payment for the Transfer Fee as required by Subsection 5660(b), and

(2) Payment for the Use Tax as required by Section 5667.

(n) If the reconstructed unit was sold by a dealer, the dealer shall also comply with Section 5575.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18029, 18070.1(c), 18075.5, 18080.5, 18114, 18114.1, 18115 and 18116, Health and Safety Code.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).
2. Amendment filed 4-1-98; operative 4-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

Article 14. Notice of Attachment

§ 5640. Reporting an Attachment Lien on a Manufactured Home, Mobilehome, Multi-Unit Manufactured Housing, or Commercial Coach.

(a) When an attachment lien has been issued by a court for a manufactured home, mobilehome, multi-unit manufactured housing, or commercial coach registered with the department, and if the plaintiff requests that the department record the attachment lien, the levying officer shall provide the department with notification of the attachment lien by submitting to the department a statement signed under penalty of perjury which contains the following information:

(1) The unit identifying information.

(2) The registered owner(s) identifying information.

(3) A statement that the unit is equipment of a going business in the possession or under the control of the registered owner(s) who is also the defendant named in the attachment lien.

(4) The name and address of the plaintiff.

(5) The name of the court and the case number under which the attachment lien was ordered.

(b) The levying officer shall transmit with the statement as described in subsection (a), with the payment for the three dollar filing and indexing fee.

(c) Unless the levying officer files a notice of a one-year extension of the attachment as required by Section 5641, the attachment lien shall expire three years from the date the order authorizing the attachment is issued by the court.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code; Section 488.385, Code of Civil Procedure. Reference: Section 18075.5, Health and Safety Code; Sections 488.385(a) and 488.540(a), Code of Civil Procedure.

HISTORY

1. New article 14 (sections 5640-5643) and section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5641. Filing a One-Year Extension on a Attachment Lien Recorded with the Department.

(a) When a plaintiff has acquired an attachment lien, and the attachment lien has been recorded with the department, the plaintiff may request a one-year extension of the recording of the attachment lien by submitting the following:

(1) The levying officer shall submit a written request for an extension by submitting to the department a statement signed under penalty of perjury which contains the following information:

(A) The unit identifying information.

(B) The registered owner(s) identifying information.

(C) A statement that the unit is equipment of a going business in the possession or under the control of the registered owner(s) who is also the defendant named in the attachment lien.

(D) The name and address of the plaintiff.

(E) The name of the court and the case number under which the attachment lien was ordered.

(2) The levying officer shall transmit with the request for extension as described in subsection (a)(1), payment of the three-dollar filing and indexing fee.

(b) The department shall not accept more than five notices of one-year extensions of a single attachment lien filed on the title of a manufactured home, mobilehome, multi-unit manufactured housing, or commercial coach.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code; Section 488.385, Code of Civil Procedure. Reference: Section 18075.5, Health and Safety Code; Sections 488.385(b) and 488.510(b), (c) and (d), Code of Civil Procedure.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5642. Reporting the Release of an Attachment Lien.

(a) In order to file a release of an attachment lien previously recorded on the title of a manufactured home, mobilehome, multi-unit manufactured housing, or commercial coach, the levying officer shall provide the department with statement signed under penalty of perjury which contains the following:

(1) The unit identifying information.

(2) The registered owner(s) identifying information.

(3) A written request to release the attachment lien previously filed with the department and providing the court name and case number under which the lien was ordered.

(b) The levying officer shall transmit with the completed statement as described in subsection (a), payment of the three dollar filing and indexing fee.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code; Section 488.385, Code of Civil Procedure. Reference: Section 18075.5, Health and Safety Code; Sections 488.385(b) and 488.730(c) and (d), Code of Civil Procedure.

HISTORY

1. New section filed 12-31-97; operative 1-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5643. Requesting Attachment Lien Information.

(a) In order to request information on an attachment lien recorded with the department, the applicant shall submit a written request for attachment information signed under penalty of perjury which contains the following information:

(1) The unit identifying information.

(2) The registered owner(s) identifying information.

(3) The name and address of the requester.

(b) The requester shall submit with the request for information as described in subsection (a), payment of the three dollar certificate fee.

(c) If a copy of the notification of attachment lien as described in Section 5640, the requester shall submit with the request for attachment information as described in subsection (a), payment of the photocopy fee per page as required in subsection 5660(m).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code; Section 488.385, Code of Civil Procedure. Reference: Section 18075.5, Health and Safety Code; Sections 488.385(e), Code of Civil Procedure.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

Article 15. Title Search

§ 5650. Requesting a Title Search.

(a) A request for information on the current registration and title status of a manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, truck camper, or floating home shall comply with the requirements of this section.

(b) The requester shall submit a request for a title search which contains the following information:

(1) The name, address, and telephone number of the requester.

(2) The requester's file number, if any.

(3) The unit identifying information.

(4) The registered owner name(s) and address.

(c) The requester shall mail or submit in person the completed request, with payment of one of the following fees:

(1) The fee for the informal title search request as required by subsection 5660(k), or

(2) The fee for the formal title search request as required by subsection 5660(*l*).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18081(a) and (b), Health and Safety Code.

HISTORY

1. New section filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5651. Establishing a Requester Account.

(a) A requester may establish a prepaid title search account with the department and make requests for information on the registration and title status of units by complying with the following requirements.

(b) The requester shall complete and submit to the department a requester account agreement which contains the following:

THIS AGREEMENT, made and entered into this _____ day of _____ 19___, between the STATE OF CALIFORNIA, acting by and through the DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, herein called "seller" and _____ enter requester's name _____, herein called "buyer".

WHEREAS, buyer desires to purchase information from seller's records, it is agreed that the seller will furnish said information as soon as possible after receipt of request, except that seller may elect to cease furnishing said information for other reasons required by law or regulation, and

IT IS FURTHER AGREED that buyer will place an initial advance deposit with the seller, of not less than $250 to cover the seller's estimated cost for processing subsequent individual requests, including salaries and wages, operating expenses and equipment. Current information service costs are $25 for Informal Title Search and $35 for Formal Title Search per record. Payment must be in the form of a negotiable check or money order and must reach the seller before delivery of information.

IT IS FURTHER AGREED that buyer will maintain a level of advance deposit sufficient to cover the services requested from seller.

BUYER AGREES to comply with the provisions of Title 15, U.S.C., Sections 1681 to 1681(t) (Credit Reporting Agencies), if these sections are applicable to the buyer's business and method of operation.

Except for the election of seller to cease furnishing information or to cancel this contract upon notice as above provided, this contract shall continue until canceled by either party upon thirty (30) days written notice to the other.

(c) The requester account agreement shall provide a list of authorized employees who may use the account to requester title search information from the department.

(d) The requester account shall be signed by the department and by the party requesting the account.

(e) The requester shall place an advance deposit with the department as required by the signed requester account agreement pursuant to subsection (b).

(f) The requester shall maintain the confidentiality of the account number assigned the requester by the department.

(g) The requester shall maintain the balance of the advance deposit at an amount adequate to cover the services requested.

(h) The department shall accept requests for information,

(1) made in person by an authorized person,

(2) made through the mail by an authorized person,

(3) requested over a facsimile machine by an authorized person, and

(4) made by telephone by an authorized person.

(*l*) The department may cancel the requester account if the requester fails to comply with subsections (a) through (h).

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18081(a) and (b), Health and Safety Code.

HISTORY

1. New section filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

Article 16. Fees and Exemptions

§ 5660. Schedule of Fees and Penalties.

(a) Penalties under this chapter accrue when an application is submitted one or more calendar days after the statutory time frame, as evidenced by:

(1) the postmark date of the application; or

(2) the date–stamp entered by the department if the application was delivered to the department.

(b) Transfer Fee: Thirty–five dollars ($35.00) to add, delete, or change the name of the registered owner(s) of a unit.

(c) Transfer Penalty: Twenty–five dollars ($25.00) when the application for transfer is submitted more than twenty (20) calendar days after the date of sale or transfer by a non–dealer, or more than ten (10) calendar days after the date of sale or transfer by a dealer.

(d) Foreclosure/Repossession Fee. Thirty–five dollars ($35.00) to submit an application for foreclosure or repossession of a unit.

(e) Foreclosure/Repossession Penalty: Twenty–five dollars ($25.00) when an application for foreclosure or repossession is submitted more than sixty (60) calendar days after the date of foreclosure or repossession.

(f) Duplicate Certificate of Title Fee. Twenty–five dollars ($25.00) to apply for duplicate certificate of title for a unit.

(g) Duplicate Registration Card Fee. Twenty–five dollars ($25.00) to apply for a duplicate registration card for a unit.

(1) If duplicate registration cards are required for a manufactured homes or mobilehomes registered under two or more separate DMV decals, a duplicate registration card fee is charged for each duplicate registration card needed.

(h) Substitute Decal Fee. Twenty–five dollars ($25.00) to apply for a substitute decal.

(i) Substitute Year Sticker Fee. Twenty–five dollars ($25.00) to apply for a substitute, year sticker.

(j) Escrow Opening Fee. Thirty–five dollars ($35.00) to establish a 120–calendar day moratorium on the permanent title record of a manufactured home, mobilehome, multi–unit manufactured housing, commercial coach, trucker camper, or floating home.

(k) Informal Title Search Fee. Twenty–five dollars ($25) to submit a request for an informal title search to be returned by mail, picked up by a courier, or, if the customer has a requester account, returned by a facsimile machine.

(l) Formal Title Search Fee. Thirty–five dollars ($35.00) to submit a request for a formal title search to be returned by mail, picked up by a courier or, if the customer has a requester account, returned by a facsimile machine.

(m) Lien Registration Service Fee. Twenty–five dollars ($25.00) to add, delete, or change the legal owner(s) or junior lienholder(s) on a unit.

(n) Situs Change Fee. Twenty–five dollars ($25.00) to report a change of situs address of a unit.

(o) Home Address Confidentiality Fee. Seven dollars ($7) to submit a request for confidentiality of the home address of a registered owner.

(p) Photocopy Fee. Five dollars ($5.00) per each side of a document.

(q) Certification of Photocopy(s) Fee. Ten dollars ($10.00) to certify all documents requested at the same time on a particular unit.

(r) Non–Resident Fee. Thirty–five dollars ($35.00) to re–register a unit brought into California from another state in the same registration year in which the unit had been removed from California.

(s) Manufactured Home Recovery Fund Fee. Ten dollars ($10.00) for each sale of a manufactured home or mobilehome reported to the department.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18021.5, 18035(d)(2), 18075(c), 18080.5(b)(2), 18080.7(a), 18081(c) and (d), 18085(a), 18086, 18090.5, 18100, 18100.5, 18108, 18108.5, 18110, and 18117.5, Health and Safety Code; Section 6257, Government Code.

HISTORY

1. New article 16 (sections 5660–5668) and section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

2. New subsection (s) filed 4–1–98; operative 4–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 5661. Application for Refund.

(a) To obtain a refund of fees and/or penalties erroneously paid to the department under this chapter, the applicant shall submit a written request for a refund, signed under penalty of perjury, which must include:

(1) the unit identifying information;

(2) the date the fees in question were paid to the department;

(3) the name and address of the party requesting the refund;

(4) the name and address of the registered owner(s) of record;

(5) the situs address of the unit;

(6) the amount of the refund requested, and

(7) an explanation of the basis for the refund request.

(b) For that portion of a year's annual renewal fees paid by a non–exempt owner, which relates to the period between the effective date of an exemption and the end of the registration year for which the fees were due or were paid, no refund or prorated reduction of those annual renewal fees will be made if the exemption becomes effective after the beginning of the registration year.

(c) The application for refund must be submitted within three years from the date the fees and/or penalties were paid.

(d) Any refund will be issued in the name of the requesting party.

(e) In the event that excess fees are submitted with an application to transfer, the department will refund the excess fees to the escrow or title company, or, if no escrow or title company was used for the transaction, to the payor.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code; Section 13143, Government Code. Reference: Sections 18075 and 18085, Health and Safety Code; Section 13143, Government Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5662. How to Establish an Exemption from Fees for Governmental Entities.

(a) To obtain an exemption from registration fees or other fees due under this chapter, the exempt entity must submit a written request for exemption signed under penalty of perjury, which includes:

(1) the unit identifying information;

(2) that the unit is owned or leased by the exempt entity, as defined in Health and Safety Code section 18076;

(3) the effective date of the exemption, as defined by:

(A) the date the exempt entity signed a purchase contract or security agreement and paid the purchase price, or

(B) the date the exempt entity took physical possession or delivery of the unit.

(b) Payment of fees which became due prior to the effective date of the exemption, pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code, shall be paid.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code; Section 10781, Revenue and Taxation Code. Reference: Sections 18076, 18114, 18114.1, 18115 and 18116, Health and Safety Code; Section 10781, Revenue and Taxation Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5663. How to Establish an Exemption from In Lieu Taxation for Nonresident Military Personnel.

(a) To obtain an exemption from in lieu taxation of a unit owned by a nonresident member of the military, the application must include:

(1) a statement signed under penalty of perjury by one of the registered owner(s) which includes:

(A) the unit identifying information;

(B) the situs address of the unit;

(C) that the registered owner is on active duty as a member of the U.S. Armed Forces;

(D) that the registered owner is not a resident of the State of California;

(E) the state or country the registered owner claims as his or her legal residence;

(F) the duty station of the registered owner;

(G) that the unit is not used in connection with a trade or business;

(H) the registration year(s) for which the exemption is being requested; and

(I) the date the exemption took effect, as defined by:

1. the date the qualifying registered owner signed a purchase contract or security agreement and paid the purchase price of the unit; or

2. the date the qualifying registered owner took physical possession or delivery of the unit.

(2) Payment of fees which became due prior to the effective date of the exemption, pursuant to sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

(A) If the unit was purchased from a nonresident member of the military whose exemption claim had expired, delinquent fees due pursuant to sections 18114 and 18114.1 of the Health and Safety Code shall be paid prior to establishment of the buyer's non–resident military exemption.

(B) The nonresident military owner selling the unit shall provide a statement signed under penalty of perjury, which includes:

1. the unit identifying information; and

2. that during the period of nonrenewal of registration, he or she owned the unit.

(C) If no statement is submitted by the selling nonresident military owner, the fees required by Sections 18115 and 18116 of the Health and Safety Code shall also be paid.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18075.5, 18114, 18114.1, 18115 and 18116, Health and Safety Code; Soldiers and Sailors Civil Relief Act, Section 574, Title 50, Appendix, U.S. Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5664. How to Establish an Exemption from In Lieu Taxation for Indian–Owned Units Located on an Indian Reservation or Rancheria.

(a) To obtain an exemption from in–lieu taxation for a unit owned a member of a federally–recognized American Indian Tribe, the application shall include:

(1) a statement signed under penalty of perjury by the registered owner which includes:

(A) the unit identifying information;

(B) that the registered owner is a member of a federally recognized American Indian Tribe;

(C) the name of the Federal Indian Reservation or Rancheria upon which the unit is located

(D) the effective date of the exemption, which is the date the unit was installed on a Federal Reservation or Rancheria.

(E) the registration year(s) for which the exemption is being requested;

(2) Payment of fees due prior to the effective date of the exemption pursuant to sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code.

(3) If the unit was purchased from a member of a federally–recognized American Indian Tribe who had claimed the exemption, and that exemption had expired, all fees due pursuant to sections 18114 and 18114.1 of the Health and Safety Code shall be paid prior to the establishment of the buyer's own exemption.

(A) The former owner shall provide a statement signed under penalty of perjury which includes:

1. the unit identifying information;

2. that during the period of nonrenewal of registration, the unit was owned by a member of a federally–recognized American Indian Tribe located on an Indian Reservation or Rancheria.

(B) If no statement is submitted by the former owner, the fees prescribed in Sections 18115 and 18116 of the Health and Safety Code shall also be paid.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18075.5, 18114, 18114.1, 18115 and 18116, Health and Safety Code; Section 1360(b), United States Code 28. *Bryan v. Itasca*, [1976] 426 U.S. 373, 98 S. CT. 2102. *California et al. v. Cabazon Band of Mission Indians et al.*, 480 U.S. 202.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5665. How to Establish an Exemption from In Lieu Taxation for a Disabled Veterans.

(a) To obtain an exemption from in–lieu taxation on a portion or all of the value of a unit owned by a disabled veteran or his/her surviving unmarried spouse, the application shall include:.

(1) A statement signed under penalty of perjury by the disabled veteran or his/her surviving spouse which contains the following information:

(A) the unit identifying information;

(B) the registered owner(s) name and address;

(C) that the unit is his/her principal place of residence;

(D) that the disability resulted from an injury or disease incurred during military service, defined as:

1. that the veteran was a resident of California at the time of entry into the service, and became blind, lost the use of two or more limbs, or became totally disabled; OR

2. that the veteran was a resident of California on November 7, 1972, and became blind in both eyes, or lost the use of two or more limbs; OR

(3.) that the veteran was a resident of California on January 1, 1975, and became totally disabled.

(E) If the applicant is the surviving spouse, that he/she has not remarried.

(F) the relationship between the disabled veteran or his/her surviving spouse and all other registered owner(s) of the unit;

(g) the date the exemption took effect, as defined by the date the disabled veteran or his/her surviving spouse

1. signed a purchase contract or security agreement and paid the purchase price; or

2. took physical possession or delivery of the unit.

(2) Payment of all fees which became due prior to the effective date of the exemption pursuant to Sections 18114, 18114.1, 18115, and 18116 of the Health and Safety Code

(A) If the unit was purchased from another disabled veteran exempt owner, any fees due after the expiration of the seller's exemption pursuant to sections 18114 and 18114.1 of the Health and Safety Code must be paid prior to establishment of the buyer's own exemption.

1. The seller shall provide a statement signed under penalty of perjury which includes all information specified in subsection (a)(1) for each year of the delinquency.

2. If no such statement by the seller is submitted, the fees prescribed in sections 18115 and 18116 of the Health and Safety Code shall also be paid.

(b) The amount of the value of the unit which is exempt from the annual in–lieu taxation is:

(1) twenty–thousand dollars ($20,000), or

(2) thirty–thousand dollars ($30,000), if the applicant's household income is less than the annual amount determined by the State Controller pursuant to the Revenue and Taxation Code Section 20585.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Sections 18114, 18114.1, 18115 and 18116, Health and Safety Code; Sections 10788, 20504 and 20585, Revenue and Taxation Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5666. How to Obtain an Exemption from the Park Purchase Fund Fee.

(a) To apply for an exemption from the Park Purchase Fund Fee required by section 18114.1 of the Health and Safety Code, the registered owner shall submit a request signed under penalty of perjury, which includes:

(1) the unit identifying information; and

(2) he/she/they own the land upon which the unit is located.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18114.1, Health and Safety Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5667. Payment of Use Tax.

(a) Payment of the use tax is required to transfer ownership of a unit on:

(1) a used unit not subject to local property taxation.

(2) unit not purchased from a licensed California dealer;

(b) An application for registration of a unit subject to the collection of use tax shall include a statement signed under penalty of perjury by the purchaser, which includes:

(1) the name and address of the purchaser(s);

(2) the situs address of the unit;

(3) the unit identifying information;

(4) the date the unit was manufactured, if known;

(5) the length and width of the unit;

(6) the date of purchase;

(7) the total purchase price of the unit.

(8) if the unit is a commercial coach, an itemized list of the dollar value of each allowable deductions for in–place location, awnings, skirting, carport, patio, landscaping, shrubs, and unattached furnishings;

(9) if the unit is a used manufactured home, multi–unit manufactured housing, or mobilehome, and the use tax will be based on the retail value

of the unit, rather than the full purchase price, retail price is determined by:

(A) the Kelley Blue Book value for the unit, or

(B) the NADA Appraisal Guide value.

(10) the amount of use tax due, computed by one of the following methods:

(A) multiply the total purchase price by the use tax rate for the county in which the unit is located; or

(B) multiply the total purchase price less any allowable deductions as provided in subsection (8), by the use tax rate for the county in which the unit is located; or

(C) multiply the retail value as provided in subsection (9) by the use tax rate for the county in which the unit is located.

(d) When a unit is purchased in another state and brought the unit into California 90 days or less after the date of purchase, use or sales tax paid to the state of purchase will be deducted from the total amount of use tax due the State of California, provided that the purchaser shall submit a statement, signed under penalty of perjury, which includes:

(1) the unit identifying information;

(2) the name and address of the purchaser(s);

(3) the name and address of the seller;

(4) the state to which the sales or use tax was paid;

(5) the amount of sales or use tax paid to the other state;

(6) evidence of payment of the tax, as provided by a purchase or sales contract, and payment invoice or receipt for any sales/use tax paid.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18123, Health and Safety Code; and Sections 6292 and 6406, Revenue and Taxation Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

§ 5668. How To Establish an Exemption from Use Tax.

(a) To obtain an exemption from payment of use tax, an application must include either:

(1) Form BT 111, Certificate of Use Tax Exemption, or such other form as may be issued by the State Board of Equalization, when:

(A) the use tax has been paid directly to the board, or

(B) the board has determined that no use tax is due.

(2) a statement signed under penalty of perjury by the licensed California manufacturer, out–of–state manufacturer, or out–of–state dealer who sold the unit, which includes

(A) that the selling entity collected California Use Tax; and

(B) the resale license number under which the use tax was submitted to the Board.

(3) a purchase document which shows that the unit was purchased in another state more than 90 days prior to the date the unit was brought into California.

(4) a statement signed under penalty of perjury by the new registered owner, which includes:

(A) the unit identifying information;

(B) that the unit was obtained under one of the following circumstances:

1. as a gift;

2. from a parent, grandparent, grandchild, child, or spouse and the name of the parent, grandparent, grandchild, child or spouse being added to or deleted from the title record of the unit;

3. from a brother or a sister; and that both the buyer and seller are minors related by blood or adoption

4. as a result of an inheritance;

5. pursuant to a court order, provided that the unit is being registered in the name of the party named in the court order;

6. a transfer to a revocable trust in which all of the following apply:

A. the seller has an unrestricted power to revoke the trust;

B. the sale does not result in any change in the beneficial ownership of the property;

C. the trust provides that upon revocation of the trust the property will revert wholly to the seller, and;

D. the only consideration for the sale is the assumption by the trust of an existing loan for which the tangible personal property being transferred is the sole collateral for the assumed loan.

(C) if the unit was purchased from a relative, that the seller is not engaged in the business of selling the type of property for which the exemption is claimed.

NOTE: Authority cited: Sections 18015 and 18075, Health and Safety Code. Reference: Section 18123, Health and Safety Code; and Sections 6285 and 6292, Revenue and Taxation Code.

HISTORY

1. New section filed 12–31–97; operative 1–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 1).

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CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Division 1. Housing and Community Development

Chapter 5.5. Qualification for Public Benefits

Vol. 33

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Chapter 5.5. Qualification for Public Benefits

§ 5802. Authority and Purpose.

(a) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104–193, 8 U.S.C. § 1621), among other provisions, requires that receipt of public benefits be limited to U.S. citizens and qualified aliens. Public benefits provided by state governments are subject to this federal Act.

(b) The purpose of this chapter is to implement this requirement by establishing procedures for verifying the citizenship or qualified alien status of beneficiaries or prospective beneficiaries of certain housing regulatory programs administered by the Department of Housing and Community Development (hereinafter "the Department").

NOTE: Authority cited: Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code.

HISTORY

1. New chapter 5.5 (sections 5802–5820) and section filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
2. New chapter 5.5 (sections 5802–5820) and section refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–4–98 order transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 5804. Application.

The provisions of this chapter shall apply to the following housing regulatory programs administered by the Department, with regulations located in the Division of Codes and Standards (hereinafter the Division):

(a) Employee Housing (Chapter 1, Subchapter 3, beginning with § 600);

(b) Mobilehome Parks (Chapter 2, Subchapters 1 and 2, beginning with § 1000);

(c) Factory–Built Housing (Chapter 3, Subchapter 1, beginning with § 3000);

(d) Manufactured Housing (Chapter 3, Subchapter 2, beginning with § 4000);

(e) Occupational Licensing (Chapter 4, Subchapter 1, beginning with § 5000, and Subchapter 2, commencing with § 5300).

NOTE: Authority cited: Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code.

HISTORY

1. New section filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–4–98 order transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 5806. Definitions.

The following definitions shall apply to this chapter:

(a) "Alien" means any person not a citizen or national of the United States.

(b) "Applicant" means a person applying for a public benefit subject to this chapter. "Applicant" does not include a partnership or a corporation.

(c) "Department" means the California Department of Housing and Community Development.

(d) "Enforcement Agency" means the department or, for purposes of the Employee Housing regulations (Chapter 1, Subchapter 3, beginning with § 600), an enforcement agency as defined in § 17007 of the Health and Safety Code, or, for purposes of the Mobilehome Parks regulations (Chapter 2, Subchapters 1 and 2, beginning with § 1000), an enforcement agency as defined in § 18207 of the Health and Safety Code.

(e) "INA" means the Immigration and Nationality Act (8 U.S.C. § 1101 *et seq.*).

(f) "INS" means the United States Immigration and Naturalization Service.

(g) "Nonimmigrant" means the same as in Section 101(a)(15) of the INA (8 U.S.C. § 1101 (a)(15)).

(h) "PRWORA" means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104–193, 8 U.S.C. § 1621).

(i) "Public Benefit" means any of the following:

(1) A permit to operate employee housing, including a permit renewal, multiple year permit or a conditional permit, obtained under Employee Housing regulations, Article 4 of Chapter 1 of this Division, beginning with § 631;

(2) A permit to operate a mobilehome park or special occupancy park, obtained under Mobilehome Parks Act regulations, Chapter 2 of this Division, beginning with § 1000;

(3) A certification by the Department of a design approval agency, quality assurance agency, or quality assurance inspector, obtained under Factory–Built Housing regulations, Subchapter 1 of Chapter 3 of this Division, beginning with § 3000;

(4) A certification by the department of a design approval agency, quality assurance agency, or quality assurance inspector, obtained under Manufactured Housing regulations, Article 5 of Subchapter 2 of Chapter 3 of this Division, beginning with § 4850.

(5) An occupational license, temporary permit, instructor approval, or 90–day certificate issued by the department to a manufacturer, dealer, distributor, salesperson, 90–day certificate holder, course provider, or instructor, obtained under Manufactured Housing Sales, Occupational Licensing and Education regulations, Subchapter 1 of Chapter 4 of this Division, beginning with § 5000, or Subchapter 2 of Chapter 4 of this Division, beginning with § 5300.)

(j) "Qualified Alien" means an alien who, at the time he or she applies for, receives, or attempts to receive a public benefit, is, under Section 431(b) of the PRWORA (8 U.S.C. § 1641(b)), any of the following:

(1) An alien who is lawfully admitted for permanent residence under the INA (8 U.S.C. § 1101 *et seq.*);

(2) An alien who is granted asylum under Section 208 of the INA (8 U.S.C. § 1158);

(3) A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C. § 1157);

(4) An alien who is paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)) for a period of at least one year;

(5) An alien whose deportation is being withheld under Section 243(h) of the INA (8 U.S.C. § 1253(h)) (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or Section 241(b)(3) of such Act (8 U.S.C. § 1251(b)(3)) (as amended by Section 305(a) of division C of Public Law 104–208);

(6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980 (8 U.S.C. § 1153(a)(7)). (See editorial note under 8 U.S.C. § 1101, "Effective Date of 1980 Amendment.");

(7) An alien who is a Cuban or Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (8 U.S.C. § 1522 note));

(8) An alien who meets all of the conditions of subparagraphs (A), (B), (C), and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to, being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

(B) In the opinion of the enforcement agency there is a substantial connection between such battery and cruelty and the need for the benefits to be provided. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien to become self–sufficient following separation from the abuser.

2. The benefits are needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.

5. The benefits are needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care facility for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien had when living with the abuser.

(C) The alien has been approved or has a petition pending which sets forth a prima facie case for:

1. status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)(ii), (iii) or (iv));

2. classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 1154 (a) (1) (B) (ii) or (iii));

3. suspension of deportation pursuant to § 244(a)(3) of the INA (8 U.S.C. § 1254) as in effect prior to April 1, 1997 [Pub.L. 104–208, sec. 501 (effective September 30, 1996, pursuant to sec. 591); Pub.L. 104–208, sec. 304 (effective April 1, 1997, pursuant to sec 309); Pub.L. 105–33, Sec. 5581 (effective pursuant to sec. 5582)] (incorrectly codified as cancellation of removal under section 240A of such Act [8 USCS sec. 1229b] (as in effect prior to April 1, 1997);

4. status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204 (a) (1) (A) of the INA (8 U.S.C. § 1154 (a) (1) (A)(i) or classification pursuant to clause (i) of Section 204 (a)(1)(B) of the INA (8 U.S.C. § 1154 (a) (1) (B)(i)), or

5. cancellation of removal pursuant to section 240(b)(2)(A) of the INA (8 U.S.C. § 1229(b)(2)).

(D) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(9) An alien who meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below:

(A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

(B) The alien did not actively participate in such battery or cruelty;

(C) In the opinion of the enforcement agency, there is a substantial connection between such battery or cruelty and the need for the benefits to be provided. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien's child to become self–sufficient following separation from the abuser.

2. The benefits are needed to enable the alien's child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien's child from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien child's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien's child to lose his or her job or to earn less or to require the alien's child to leave his or her job for safety reasons.

5. The benefits are needed because the alien's child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's child's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care facility for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.

(D) The alien meets the requirements of subsection (j)(8)(C) above;

(E) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(10) An alien child who meets all of the conditions of subparagraphs (A), (B), and (C) below:

(A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful de-

tention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

(B) In the opinion of the enforcement agency there is a substantial connection between such battery or cruelty and the need for the benefits to be provided. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien child's parent to become self-sufficient following separation from the abuser.

2. The benefits are needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.

5. The benefits are needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care facility for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

(C) The alien child meets the requirements of subsection (j)(8)(C) above.

(k) "Unqualified Alien" means an alien who is not a qualified alien.

NOTE: Authority cited: Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code.

HISTORY

1. New section filed 3-20-98 as an emergency; operative 4-6-98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8-4-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8-4-98 as an emergency; operative 8-4-98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-4-98 order, including amendment of subsections (j)(9)(D) and (j)(10)(C) and redesignation of former subsection (j)(10)(D) as subsection (k), transmitted to OAL 12-1-98 and filed 1-14-99 (Register 99, No. 3).

§ 5808. Nondiscrimination.

All eligibility requirements contained in this chapter shall be applied without regard to the race, creed, color, gender, religion, age, disability, familial status or national origin of individuals applying for public benefits.

NOTE: Authority cited: Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code.

HISTORY

1. New section filed 3-20-98 as an emergency; operative 4-6-98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8-4-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8-4-98 as an emergency; operative 8-4-98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-4-98 order, including amendment of section, transmitted to OAL 12-1-98 and filed 1-14-99 (Register 99, No. 3).

§ 5810. Eligibility Requirements for Public Benefits.

(a) Eligibility must be determined for each recipient of a public benefit subject to this chapter.

(b) To be eligible to receive a public benefit subject to this chapter, a person must be a United States citizen or national, or, pursuant to Section 411 of the PRWORA, one of the following: (1) a qualified alien; (2) a nonimmigrant alien under the INA; or (3) an alien who is paroled into the United States under § 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)) for less than one year.

(c) An alien shall be entitled to retain a public benefit under this chapter only so long as he or she is a qualified alien.

NOTE: Authority cited: Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code.

HISTORY

1. New section filed 3-20-98 as an emergency; operative 4-6-98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8-4-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8-4-98 as an emergency, including amendment of subsection (b); operative 8-4-98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-4-98 order transmitted to OAL 12-1-98 and filed 1-14-99 (Register 99, No. 3).

§ 5812. Time of Eligibility Determination; Period of Effect of a Public Benefit.

(a) Eligibility of an applicant shall be determined at the time of application for a public benefit, prior to issuance of the public benefit being applied for, except as provided in Section 5816(g). If the enforcement agency investigates an applicant and does not determine that the applicant is eligible to receive public benefits pursuant to this chapter, the public benefit shall be denied, except as provided in Section 5816(g).

(b) Except as provided in Section 5816(g), the continuing eligibility for public benefits of a person who has received a public benefit prior to the effective date of these regulations shall be established prior to an enforcement agency's approval of any renewal or other change concerning the public benefit which, pursuant to program regulations, requires the enforcement agency's prior approval. If a person fails to establish eligibility, the enforcement agency shall withhold its approval of the renewal or other change, except as provided in Section 5816(g). Under no circumstances may a public benefit provided to a person be transferred to an unqualified alien, nor may a public benefit be used in a manner which would allow an unqualified alien to be a beneficiary.

(c) All determinations of ineligibility shall be promptly transmitted to the applicant in writing, and shall include the reasons for the determination and a summary of the applicable appeal procedures set forth in section 5818.

NOTE: Authority cited: Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code.

HISTORY

1. New section filed 3-20-98 as an emergency; operative 4-6-98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8-4-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8-4-98 as an emergency; operative 8-4-98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12-2-98

or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 8–4–98 order, including amendment of subsection (c), transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 5814. Responsibility for Eligibility Determination.

(a) Eligibility of an applicant shall be determined by the enforcement agency, as part of its ongoing program enforcement responsibilities. An enforcement agency other than the department may refer the verification of alien applicants to the department by transferring to the department's Division of Codes and Standards copies of all documentation presented by the applicant and the department's fee pursuant to subdivision (d) of Section 5814. Each enforcement agency which is performing verifications shall maintain the appropriate documentation for each recipient of public benefits or applicant whose eligibility it has determined. Where the eligibility of an applicant for a public benefit has already been verified as part of an eligibility process for another program subject to PRWORA, that verification shall be deemed adequate for purposes of this chapter, and documentation of such verification shall be maintained in the applicant's file.

(b) The failure of a local enforcement agency which is performing verifications to perform eligibility verifications as required by this chapter may, in the department's discretion, be considered a failure to perform the duties of an enforcement agency under applicable program regulations.

(c)Any enforcement agency other than the department which verifies eligibility may charge applicants a reasonable fee for determining eligibility, not to exceed the actual cost of performing the verification. When an enforcement agency other than the department refers the verification of an applicant's eligibility to the department as provided in subdivision (a), the enforcement agency shall collect from the applicant and transmit to the department the fee pursuant to subdivision (d).

(d) The department may charge a fee of $13.00 for each verification it performs.

(e) An enforcement agency, including the department, shall not be liable for any action, delay, error or failure by the INS in operating the Systematic Alien Verification for Entitlements (SAVE) system or any other verification process, or by any other public agency to which the enforcement agency applies to obtain information the enforcement agency deems necessary to its determination of the eligibility of an applicant to receive public benefits.

NOTE: Authority cited: Sections 17003.5, 17020, 18015, 18020, 18300, 19990, 19991.3 and 50406(f), Health and Safety Code; and Section 15376, Government Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code.

HISTORY

1. New section filed 3–20–98 as an emergency; operative 4–6–98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8–4–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–4–98 as an emergency; operative 8–4–98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–4–98 order transmitted to OAL 12–1–98 and filed 1–14–99 (Register 99, No. 3).

§ 5816. Method of Determining Eligibility.

(a) To be considered for eligibility, an applicant shall declare his or her status as a United States citizen or national, a qualified alien, a nonimmigrant alien, or a parolee to the United States by completing and signing the "Statement of Citizenship, Alienage, and Immigration Status for State Public Benefits", Form HCD–Benefit Status Form 1 ("HCD Form 1"), 8/98 version, which is hereby incorporated into these regulations by reference and will be provided by the department.

(b) The applicant shall present documents of a type acceptable to the INS, as described in List A of HCD Form 1 (8/98) in the case of an applicant who is a citizen or national, or List B of HCD Form 1 (8/98) in the case of an applicant who is an alien, as evidence of the applicant's declared status at the time of application. The enforcement agency may accept copies of listed documents as evidence if in its judgment the documents copied reasonably appear to be genuine and to relate to the applicant. A fee receipt from the INS for replacement of a lost, stolen, or unreadable INS document is reasonable evidence of an alien's declared status. Where the documents reasonably appear to be genuine and to relate to the applicant, the applicant shall be considered eligible for the public benefit.

(c) If the documents presented do not on their face appear to be genuine or to relate to the individual presenting them, the enforcement agency shall contact the government entity that originally issued the documents for verification. In the case of naturalized citizens, derivative citizens presenting certificates of citizenship, and aliens, the INS is the appropriate government entity to contact for verification. The enforcement agency shall request verification from the INS by filing INS Form G–845 or its successor, with copies of the pertinent documents provided by the applicant, with the local INS office. If an applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant shall be referred to the local INS office to obtain documentation.

(d) The following documents presented by applicants shall be referred to the INS for verification:

(1) A document which indicates immigration status but does not include an alien registration or alien admission number.

(2) A document which is suspected to be counterfeit or to have been altered.

(3) A document which includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.

(4) A document which is one of the following: an INS Form I–181b notification letter issued in connection with an INS Form I–181 Memorandum of Creation of Record of Permanent Residence, an Arrival–Departure Record (INS Form I–94) or a foreign passport stamped "PROCESSED FOR I–551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE," that INS issued more than one year before the date of application for a public benefit subject to this chapter.

(e) If the INS advises that the applicant is a citizen, a national, or has immigration status which makes him or her a qualified alien under the PRWORA, the INS verification shall be accepted. If the INS advises that it cannot verify that the applicant is a citizen, a national, or a qualified alien, benefits shall be denied and the applicant notified of the denial and of his or her right to appeal the denial pursuant to Section 5818.

(f) Pursuant to Section 434 of the PRWORA (8 U.S.C. § 1644), where the enforcement agency reasonably believes that an alien is unlawfully in the State based on the failure of the alien to provide reasonable evidence of the alien's declared status, after an opportunity to do so, that alien shall be reported to the INS.

(g) If an applicant provides the enforcement agency with all information required by subdivisions (a) and (b), and following review of this information the enforcement agency determines that no further action is necessary to determine the applicant's eligibility, the applicant shall be considered eligible for public benefits. However, if the enforcement agency determines that further action is necessary, the applicant shall be considered eligible for a temporary permit, certification or license as specified below, until and unless the enforcement agency receives written confirmation from the INS, or determines based on other information received, that the applicant is not eligible for a public benefit.

(1) The enforcement agency shall issue the applicant a temporary permit, certification or license, valid for a period not to exceed 180 days, which may be extended for one additional period of not more than 180 days.

(2) If the enforcement agency later determines the applicant is eligible to receive the public benefit applied for, it shall issue the applicant a permit, certification or license which is valid for the normal period, as provided in the applicable program statutes and regulations, beginning with the date of issuance of the temporary permit, certification or license.

(3) If the enforcement agency later determines the applicant is not eligible to receive the public benefit applied for, the temporary permit, certification or license shall become void 30 days after the date of the determination of ineligibility. The enforcement agency shall promptly notify the applicant by first-class mail of the determination and the date on which the temporary permit, certification or license shall become void, and promptly thereafter shall ascertain whether the applicant has ceased the activity authorized by the temporary permit, certification or license.

NOTE: Authority cited: Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code.

HISTORY

1. New section filed 3-20-98 as an emergency; operative 4-6-98 (Register 98, No. 12). A Certificate of Compliance must be transmitted to OAL by 8-4-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8-4-98 as an emergency; operative 8-4-98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-4-98 order, including amendment of subsections (a), (b) and (e), transmitted to OAL 12-1-98 and filed 1-14-99 (Register 99, No. 3).

§ 5818. Appeals.

(a) Any person determined to be ineligible to receive public benefits by an enforcement agency pursuant to this chapter may appeal that determination as provided in this section.

(b) To be considered, an appeal must: (1) be submitted in writing to the enforcement agency that performed the eligibility verification; (2) be delivered to the department by the applicant, by a messenger service, or by U.S. Mail, within 10 calendar days from the date of the written determination of ineligibility, as evidenced by either the date of receipt when delivered by the applicant, or by a Postmark or equivalent date on the messenger service delivery envelope; and (3) state the reason(s) the person believes the determination was in error.

(c) The enforcement agency shall follow the appeal procedures set forth in this subdivision:

(1) Upon receipt of an appeal, the verifying enforcement agency shall conduct an administrative review of the decision being appealed, including all documentary information submitted by the appellant in support of his or her appeal. Within 15 calendar days of receipt of an appeal, the administrative review shall be completed and a written notice issued to the appellant either that the appellant has been found eligible to receive benefits, or that the appellant has been found ineligible to receive benefits and the date, time and location at which a hearing will take place. The hearing may be by telephone or in person, in which case the hearing will be held in the general geographic area where the benefit would have been conferred.

(2) The enforcement agency shall appoint an employee other than the person who performed the initial verification to serve as Hearing Officer. The program providing the benefit applied for may be, but is not required to be, represented at the hearing.

(3) The Hearing Officer may determine the relevance of the information or testimony, may limit the length of presentations, and may eject threatening or abusive persons from the hearing. The Hearing Officer may request additional evidence, proof, or documentation from the appellant at the time of the hearing, or thereafter, and shall set a time after which no additional information will be accepted.

(4) The authority of the Hearing Officer shall be limited to determinations of eligibility pursuant to this chapter, and he or she shall have no authority to overrule any finding or decision of the INS. Pending the Hearing Officer's decision, any discretionary action regarding eligibility for public benefits shall be stayed. If, during the appeal process, the appellant is found to be ineligible to receive benefits under the program applied under for reasons other than those set forth in this subchapter, the appeal shall be dismissed.

(5) The Hearing Officer shall render a decision in writing within 15 working days after the hearing, and this will be a final administrative decision.

(6) The hearing shall be recorded, but only transcribed where the verifying entity deems it necessary. Tapes shall be retained for one year after a decision is reached.

NOTE: Authority cited: Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code.

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2. New section refiled 8-4-98 as an emergency; operative 8-4-98 (Register 98, No. 32). A Certificate of Compliance must be transmitted to OAL by 12-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-4-98 order, including repealer of former section 5818 and renumbering of former section 5820 to new section 5818, transmitted to OAL 12-1-98 and filed 1-14-99 (Register 99, No. 3).

§ 5820. Appeals.

NOTE: Authority cited: Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Sections 17003.5, 17020, 18015, 18020, 18300, 19990 and 19991.3, Health and Safety Code; and Section 15376, Government Code.

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3. Certificate of Compliance as to 8-4-98 order, including renumbering of former section 5820 to new section 5818, transmitted to OAL 12-1-98 and filed 1-14-99 (Register 99, No. 3).

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Barclays Official

CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Division 1. Housing and Community Development

Chapter 6. Department of Housing and Community Development Programs

Vol. 33

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Chapter 6. Department of Housing and Community Development Programs

Subchapter 1. Relocation Assistance and Real Property Acquisition Guidelines

Article 1. General

§ 6000. Order of Adoption.

This subchapter (hereinafter referred to as the "Guidelines") is adopted pursuant to the provisions of Section 41135, Health and Safety Code, in order to implement, interpret and to make specific provisions of Division 7, commencing with Section 7260 of the Government Code (hereinafter referred to as the "Act"), relating to relocation assistance, last resort housing and real property acquisition.

NOTE: Authority cited for Chapter 6: Sections 41134, 41135, and 41226, Health and Safety Code. Reference: Section 7260 et seq., Government Code; 41134, 41135, and 41226, Health and Safety Code.

HISTORY

1. Amendment filed 11-5-76 as an emergency; designated effective 11-27-76 (Register 76, No. 44). For prior history, see Register 76, No. 44.
2. Redesignation of Chapter 6 (Sections 6000-6198, not consecutive) to Chapter 6, Subchapter 1 (Sections 6000-6198, not consecutive) filed 1-28-77 as procedural and organizational; effective upon filing (Register 77 No. 5).
3. Amendment filed 1-28-77 as procedural and organizational; effective upon filing (Register 77, No. 5).
4. Certificate of Compliance as to filing of 11-5-76 filed 2-16-77 (Register 77, No. 8).

§ 6002. Statement of Purpose and Policy.

(a) The purpose of the Guidelines is to assist public entities in the development of regulations and procedures implementing the Act.

(b) The Guidelines are designed to carry out the following policies of the Act:

(1) To ensure that uniform, fair and equitable treatment is afforded persons displaced from their homes, businesses or farms as a result of the actions of a public entity in order that such persons shall not suffer disproportionate injury as a result of action taken for the benefit of the public as a whole; and

(2) In the acquisition of real property by a public entity, to ensure consistent and fair treatment for owners of real property to be acquired, to encourage and expedite acquisition by agreement with owners of such property in order to avoid litigation and relieve congestion in courts, and to promote confidence in public land acquisition.

(c) A public entity shall not participate in or undertake a project that will displace individuals from their homes unless comparable replacement dwellings (see subsection 6008(c)) will be available within a reasonable period of time prior to displacement.

(d) The Guidelines are intended to establish only minimum requirements for relocation assistance and payments. They shall not be construed to limit any other authority or obligation which a public entity may have to provide additional assistance and payments.

(e) The Act and the Guidelines are intended for the benefit of displaced persons, to ensure that such persons receive fair and equitable treatment and do not suffer disproportionate injuries as the result of programs designed for the benefit of the public as a whole. The Act, Guidelines and all applicable regulations on which determinations are based shall be construed to effect this intent.

§ 6004. Applicability and Supersedure.

(a) Except as otherwise noted in this section, the Guidelines are applicable to all displacement and acquisition occurring on or after their effective date, January 1, 1977.

(b) These Guidelines supersede those adopted by the Commission of Housing and Community Development on October 17, 1973. The guidelines so superseded shall not apply to any displacement or acquisition occurring on or after the effective date of these Guidelines. Any such displacement or acquisition shall be governed solely by these Guidelines and the California Relocation Act, found at Government Code section 7260 et seq.

The provisions of these Guidelines, however, shall not be construed retroactively to apply to action(s) undertaken by a public entity prior to their effective date where the purpose of the action was to fulfill obligations imposed by the Act and the action is in compliance with the requirements of the Act and the existing Guidelines. For the purpose of this section the term "action" shall include but is not limited to: the provision of information, notice, other assistance, comparable replacement housing, payments and other benefits; the preparation of relocation and last resort housing plans, including the survey and analysis of needs and resources; the processing of grievances; and the various steps taken in connection with the acquisition of property for public use.

These guidelines shall apply to relocation plans and notices to displacees subsequent to the effective date of any regulatory provision. The right of displacees shall not be reduced in reliance on any amendment to these guidelines where it may be demonstrated that the displacee has acted in reliance on a notice given to that household prior to the effective date of any guideline.

(c) To the extent that these Guidelines are from time to time amended, the amendments shall be effective prospectively from the date that they become effective.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Article 4, Section 8, California Constitution.

HISTORY

1. Amendment of subsection (b) filed 11-5-76 as an emergency; designated effective 11-27-76 (Register 76, No. 44).
2. Certificate of Compliance filed 2-16-77 (Register 77, No. 8).
3. Amendment of section and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6006. Regulations.

(a) Each public entity before undertaking or participating in activity which will result in the displacement of persons shall adopt rules and regulations that implement the requirements of the Act, are in accordance with the provisions of the Guidelines, and prescribe additional procedures and requirements that are appropriate to the particular activities of the public entity and not inconsistent with the Act or Guidelines.

(b) Rules and regulations issued under this section shall be promptly revised as necessary, to conform to any amendment of the Act or Guidelines.

§ 6008. Definitions.

The following terms shall mean:

(a) Acquisition.

Obtaining ownership or possession of property by lawful means.

(b) Business.

Any lawful activity, except a farm operation provided such lawful activity is not in an unlawful occupancy as defined in subsection (v), conducted primarily:

(1) For the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purpose of a moving expense payment (see section 6090), for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display, whether or not such display is located on the premises on which any of the above activities are conducted.

(c) Comparable Replacement Dwelling.

A dwelling which satisfies each of the following standards:

(1) Decent, safe and sanitary (as defined in subsection 6008(d)), and comparable to the acquired dwelling with respect to number of rooms, habitable living space and type and quality of construction, but not lesser

in rooms or living space than necessary to accommodate the displaced person.

(2) In an area not subjected to unreasonable adverse environmental conditions from either natural or manmade sources, and not generally less desirable than the acquired dwelling with respect to public utilities, public and commercial facilities and neighborhood conditions, including schools and municipal services, and reasonably accessible to the displaced person's present or potential place of employment; provided that a potential place of employment may not be used to satisfy the accessibility requirement if the displaced person objects.

The Act and Guidelines do not require that the replacement dwelling be generally as desirable as the acquired dwelling with respect to environmental characteristics. Though a displaced person does not have to accept a dwelling subject to unreasonable adverse environmental conditions, neither is a public entity required to duplicate environmental characteristics, such as scenic vistas or proximity to the ocean, lakes, rivers, forests or other natural phenomena.

If the displaced person so wishes, every reasonable effort shall be made to relocate such person within or near to his existing neighborhood. Whenever practicable the replacement dwelling shall be reasonably close to relatives, friends, services or organizations with whom there is an existing dependency relationship.

(3) Available on the private market to the displaced person and available to all persons regardless of race, color, sex, marital status, religion, or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968 or any other applicable state or federal anti-discrimination law.

(4) To the extent practicable and where consistent with paragraph (c)(1) of this section, functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(5)(A) Within the financial means of the displaced person. A replacement dwelling is within the financial means of a displaced person if the monthly rental cost (including utilities and other reasonable recurring expenses) minus any replacement housing payment available to the person (as provided in section 6104) does not exceed thirty percent (30%)[1] of the person's average monthly income (as defined in subsection 6008(1)).

(B) For homeowners; a replacement dwelling is within the financial means of a displaced person if the purchase price of the dwelling including related increased interest costs and other reasonable expenses including closing costs (as described in section 6102) does not exceed the total of the amount of just compensation provided for the dwelling acquired and the replacement housing payment available to the person (as provided in section 6102).

If a dwelling which satisfies these standards is not available the public entity may consider a dwelling which exceeds them.

(d) Decent, Safe and Sanitary.

(1) Housing in sound, clean and weather tight condition, in good repair and adequately maintained, in conformance with the applicable state and local building, plumbing, electrical, housing and occupancy codes or similar ordinances or regulations and which meets the following minimum standards:

(A) Each housekeeping unit shall include a kitchen with a fully usable sink, a stove or connection for a stove, a separate and complete bathroom, hot and cold running water in both bathroom and kitchen, an adequate and safe wiring system for lighting and other electrical services and heating as required by climatic conditions and local codes.

(B) Each nonhousekeeping unit shall be in conformance with state and local code standards for boarding houses, hotels and other dwellings for congregate living.

(2) When the term decent, safe and sanitary is interpreted, under local, state or federal law, as establishing a higher standard, the elements of that higher standard, which exceed the provision of paragraph (1) of this subsection, are incorporated herein. A unit which is occupied by no more than the maximum number of people allowed under the State Building Code shall be considered to be in compliance with the occupancy provisions of this subsection.

(e) Department. Department of Housing and Community Development.

(f) Displaced Person. Any person who moves from real property, or who moves his personal property from real property, either:

(1) As a result of a written notice of intent to acquire by a public entity or as a result of the acquisition of such real property, in whole or in part, by a public entity or by any person having an agreement with or acting on behalf of a public entity, or as the result of a written order from a public entity to vacate the real property, for public use; or

(2) As a result of the rehabilitation, demolition or other displacing activity undertaken by a public entity or by any person having an agreement with or acting on behalf of a public entity of real property on which the person is in lawful occupancy or conducts a business, and the displacement, except as provided in Government Code section 7262.5, lasts longer than 90 days.

This definition shall be construed so that persons displaced as a result of public action receive relocation benefits in cases where they are displaced as a result of an owner participation agreement or an acquisition carried out by a private person for or in connection with a public use where the public entity is otherwise empowered to acquire the property to carry out the public use.

(3) Except persons or families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, who are occupants of housing which was made available to them on a permanent basis by a public agency and who are required to move from that housing, a displaced person shall not include any of the following:

(A) Any person who has been determined to be in unlawful occupancy of the displacement property as defined in subsection 6008(v).

(B) Any person who is a post-acquisition occupant of the displacement dwelling, as provided in section 6034(b);

(C) Any person who occupied the property for the purpose of obtaining relocation benefits and assistance;

(D) Any person who is an occupant of a "Qualified affordable housing preservation project" and all requirements of Government Code section 7262.5 are met; or

(E) Any person occupying private property (not otherwise entitled to relocation benefits as a result of an acquisition, rehabilitation or demolition program) who is required to move as a result of the displacing agency's routine enforcement of building, housing or health codes unless the code enforcement is undertaken for the purpose of causing displacement in coordination with an identified rehabilitation, construction, or demolition program or project.

(F) A person who is not required to move permanently or temporarily as a result of the project as long as they are notified they are not required to move and the project does not impose an unreasonable change in the character or use of the property.

(G) An owner-occupant who moves as a result of an acquisition meeting the requirements of Government Code section 7277.

(g) Dwelling. The place of permanent or customary and usual abode of a person, including a single-family dwelling, a single-family unit in a two-family dwelling, multi-family or multipurpose dwelling, a unit of a condominium or cooperative housing project, a nonhousekeeping unit, a mobilehome, a recreational vehicle as described in Health and Safety Code Section 18010, or any other residential unit which either is considered to be real property under State law or cannot be moved without substantial damage or unreasonable cost. A residence need not be decent, safe and sanitary to be a dwelling.

A second home shall be considered to be a dwelling only for the purpose of establishing eligibility for payment for moving and related expenses (as provided in section 6090).

(h) Economic Rent. The amount of rent a tenant or homeowner would have to pay for a dwelling similar to the acquired dwelling in a comparable area.

(i) Elderly Household. A household in which the head of household or spouse is 62 years or older.

(j) Family. Two or more individuals who by blood, marriage, adoption, or mutual consent live together as a family unit.

(k) Farm Operation. Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(l) Gross Income. Gross income means the total annual income of an individual, or where a family is displaced total annual income of the parents or adult heads of household, less the following:

(1) A deduction of $500 for each dependent in excess of three.

(2) A deduction of ten percent (10%) of total income for an elderly or handicapped household.

(3) A deduction for recurring, extraordinary medical expenses, defined for this purpose to mean medical expenses in excess of three percent of total income, where not compensated for or covered by insurance or other sources, such as public assistance or tort recovery.

(4) A deduction of reasonable amounts paid for the care of children or sick or incapacitated family members when determined to be necessary to employment of the head or spouse, except that the amount deducted shall not exceed the amount of income received by the person thus released.

Gross income is divided by twelve to ascertain the average monthly income. Relocation and property acquisition payments are not to be considered as income for the determination of financial means.

(m) Handicapped Household. A household in which any member is handicapped or disabled.

(n) Initiation of Negotiations. The initial written offer made by the acquiring entity to the owner of real property to be purchased, or the owner's representative.

(o) Manufactured Home or Mobilehome. A structure described in Health and Safety Code sections 18007 and 18008.

(p) Mortgage. Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

(q) Ownership. Holding any of the following interests in a dwelling, or a contract to purchase one of the first six interests:

(1) A fee title.

(2) A life estate.

(3) A 50–year lease.

(4) A lease with at least 20 years to run from the date of acquisition of the property.

(5) A proprietary interest in a cooperative housing project which includes the right to occupy a dwelling.

(6) A proprietary interest in a mobilehome.

(7) A leasehold interest with an option to purchase.

In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance or operation of law, the tenure of ownership, but not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

(r) Person. Any individual, family, partnership, corporation, limited liability corporation or association.

(s) Public Entity. Includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state when acquiring real property, or any interest therein, or ordering that acquired property be vacated, in any city or county for public use.

(t) Public Use. A use for which property may be acquired by eminent domain.

(u) Tenant. A person who rents or is otherwise in lawful possession of a dwelling, including a sleeping room, which is owned by another.

(v) Unlawful Occupancy. A person is considered to be in unlawful occupancy if the person has been ordered to move by a court of competent jurisdiction or if the person's tenancy has been lawfully terminated by the owner for cause, the tenant has vacated the premises, and the termination was not undertaken for the purpose of evading relocation assistance obligations.

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[1]For those who, pursuant to the criteria set forth in Government Code section 7260(i)(3)(A) through (J), would have qualified as a "displaced person" prior to January 1, 1998, the applicable figure shall be twenty–five percent (25%) of the person's average monthly income.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Sections 7260(b), (c)(2)(A), (I)(1) and 7277, Government Code; Section 17000, Corporations Code; and Sections 18007, 18008, 18010 and 50093, Health and Safety Code.

HISTORY

1. Amendment of section and new NOTE filed 8–12–97; operative 9–11–97 (Register 97, No. 33).
2. Redesignation and amendment of former subsection (c)(5) as subsections (c)(5)(A)–(B) and amendment of subsections (f)(2) and (f)(3)(D) filed 10–7–99; operative 11–6–99 (Register 99, No. 41).

§ 6010. Prior Determinations.

(a) Displacement. No public entity may proceed with any phase of a project or other activity which will result in the displacement of any person, business or farm until it makes the following determinations:

(1) Fair and reasonable relocation payments will be provided to eligible persons as required by Article 3 of the Guidelines.

(2) A relocation assistance program offering the services described in Article 2 of the Guidelines will be established.

(3) Eligible persons will be adequately informed of the assistance, benefits, policies, practices and procedures, including grievance procedures, provided for in these Guidelines.

(4) Based upon recent survey and analysis of both the housing needs of persons who will be displaced and available replacement housing and considering competing demands for that housing, comparable replacement dwellings will be available, or provided, if necessary, within a reasonable period of time prior to displacement sufficient in number, size and cost for the eligible persons who require them.

(5) Adequate provisions have been made to provide orderly, timely, and efficient relocation of eligible persons to comparable replacement housing available without regard to race, color, religion, sex, marital status, or national origin with minimum hardship to those affected.

(6) A relocation plan meeting the requirements of section 6038 has been prepared.

(b) Acquisition. No public entity may proceed with any phase of a project or any other activity which will result in the acquisition of real property until it determines that with respect to such acquisition and to the greatest extent practicable,

(1) Adequate provisions have been made to be guided by the provisions of Article 6 of the Guidelines, and

(2) Eligible persons will be informed of the pertinent benefits, policies and requirements of the Guidelines.

HISTORY

1. Amendment of subsection (b) filed 11–5–76 as an emergency; designated effective 11–27–76 (Register 76, No. 44).
2. Certificate of Compliance filed 2–16–77 (Register 77, No. 8).

§ 6012. Citizen Participation.

(a) All persons who will be displaced, neighborhood groups and any relocation committee shall be given an opportunity and should be encouraged fully and meaningfully to participate in reviewing the relocation plan and monitoring the relocation assistance program.

(b) When a substantial number of persons will be displaced from their dwellings the public entity shall encourage the residents and community organizations in the displacement area to form a relocation committee. The committee shall include, when applicable, residential owner occupants, residential tenants, business people, and members of existing organizations within the area. In lieu of initiating a new process of citizen participation, public entities which have conducted or are conducting a citizen participation process as part of an existing development program may substitute such process if it satisfies the requirements of this section.

If a substantial number of persons will not be displaced from their dwellings, the public entity shall at least consult with and obtain the advice of residents and community organizations and make the relocation plan available to such persons and organizations prior to submitting it to the legislative body for approval. (See section 6038.)

(c) At a minimum the displacing entity shall guarantee the following:

(1) Timely and full access to all documents relevant to the relocation program. A public entity may reasonably restrict access to material where its confidentiality is protected by law or its disclosure is prohibited by law.

The displacing entity shall ensure that the information in documents the provision of which would result in disclosure of the identity of eligible persons is provided in a manner designed to avoid such disclosure. This obligation to avoid improper disclosure shall not affect the right of the person to which the information relates (or any other person authorized in writing by such person) to inspect such documents.

(2) The provision of technical assistance necessary to interpret elements of the relocation plan and other pertinent materials.

(3) The right to submit written or oral comments and objections, including the right to submit written comments on the relocation plan and to have these comments attached to the plan when it is forwarded to the local legislative body or the head of the state agency for approval.

(4) Prompt, written response to any written objections or criticisms.

§ 6014. Prerequisite to Displacement.

No person shall be displaced until the public entity has fulfilled the obligations imposed by the Act and Guidelines.

§ 6016. Remedies.

(a) If the public entity has not fulfilled or is not substantially fulfilling its relocation responsibilities, it shall cease displacement until such time as its responsibilities are fulfilled. When appropriate project implementation shall be suspended or terminated.

(b) Eligible persons who move without offers of assistance and benefits, after the public entity was required to offer assistance or benefits, shall be provided such assistance and payments and, when appropriate, compensation for additional costs incurred. The displacing entity shall make every effort to identify and locate such persons.

(c) A public entity may pay a complainant's attorney's fees and costs and is encouraged to consider doing so when a complainant institutes a successful administrative appeal or judicial action.

(d) The enumeration of remedies in this section is not intended to discourage or preclude the use of other remedies consistent with the intent of the Act and Guidelines. Rather a public entity is encouraged to consider and adopt other remedies.

§ 6018. Priority of Federal Law.

If a public entity undertakes a project with federal financial assistance and consequently must provide relocation assistance and benefits as required by federal law, the provisions of the Act and Guidelines shall not apply; but if an obligation to provide relocation assistance and benefits is not imposed by federal law the provisions of the Act and Guidelines shall apply.

§ 6020. Severability.

If any provision of the Guidelines or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the Guidelines which can be given effect without the invalid provision or application, and to this end the provisions of the Guidelines are severable.

Article 2. Relocation Assistance Advisory Program and Assurance of Comparable Replacement Housing

§ 6030. Purpose.

The purpose of this part is to set forth requirements with respect to the development and implementation of a relocation assistance advisory program for the provision of specified services and to prescribe the obligation of a public entity not to displace or cause the displacement of any person from his dwelling without adequate notice and unless comparable replacement housing is available.

§ 6032. Relocation Assistance Advisory Program.

Public entities shall develop and implement a relocation assistance advisory program which satisfies the requirements of this article and of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, the Unruh Civil Rights Act, the Rumford Act and applicable state and federal anti-discrimination laws. Such program shall be administered so as to provide advisory services which offer maximum assistance to minimize the hardship of displacement and to ensure that (a) all persons displaced from their dwellings are relocated into housing meeting the criteria for comparable replacement housing, and (b) all persons displaced from their places of business or farm operations are assisted in reestablishing with a minimum of delay and loss of earnings.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Section 7261, Government Code.

HISTORY

1. Amendment of section and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6034. Eligibility.

(a) Relocation assistance and benefits shall be available to:

(1) Any person who occupies property from which he will be displaced.

(2) Any person who will move from real property or will move his personal property from real property, because he will be displaced from other real property on which he conducts a business or farm operation.

(3) Any person who moves from real property as a result of its acquisition by a public entity whether the move is voluntary or involuntary.

(4) Any person who, following the initiation of negotiations by a public entity, moves as the result of the pending acquisition.

(5) Any person who moves as the result of pending acquisition, rehabilitation or demolition by a public entity either following receipt of a Notice of Intent to Displace (see section 6086) or as a result of inducement or encouragement by the public entity.

(b)(1) Post-acquisition tenants, those who lawfully occupy property only after a public entity acquires it, or who lawfully occupy property after the private acquisition of property by a person with a written agreement with a public entity for the purpose of financing the purchase or development of the property, are not eligible for assistance and benefits other than advisory assistance to the extent determined by the displacing agency.

A public entity shall inform post-acquisition tenants regarding the pro-jected date of displacement and, periodically, should inform post-acquisition tenants of any changes in this projection.

(2) When the displacement of a post-acquisition tenant causes a hardship for that person because of a critical housing shortage, age, handicap, infirmity, lack of financial means or other circumstance, the displacing entity shall provide relocation advisory assistance and, may in its discretion, provide other financial relocation benefits. In such hardship situations a public entity is encouraged to provide advisory assistance and payment for moving expenses.

(3) Where a public entity, or property it owns, is making housing available on a permanent basis, a post-acquisition tenant who moves as the result of a written order from the public entity to vacate is eligible for relocation assistance and benefits if the order to vacate is related to a plan to demolish, rehabilitate or change the use of such units.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Section 7260(c), Government Code.

HISTORY

1. Amendment of section and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6036. Rehabilitation and Demolition.

If a public entity undertakes a rehabilitation or demolition program and as a result a person or business is displaced from privately owned property, the public entity shall provide assistance and benefits. If a person or business is displaced by such an undertaking from property acquired by a public entity, the public entity shall provide assistance and benefits.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Section 7260(c), Government Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6038. Relocation Plan.

(a) As soon as possible following the initiation of negotiations and prior to proceeding with any phase of a project or other activity that will result in displacement a public entity shall prepare a Relocation Plan and submit it for approval to the local legislative body, or in the case of a state agency, the head of the agency. When the public entity's action will only result in an insignificant amount of non-residential displacement a displacing entity shall provide benefits as required by these Guidelines and state Relocation Law without compliance with this section. For residential projects of 15 or less households, the full and accurate completion of the Model Relocation Plan HCD-832(new), which is incorporated by reference as if set forth in full, shall be presumed to be in compliance with the planning requirements of this section. Copies of the Model Relocation Plan HCD-832(6/8/99) as well as the Informational Notice HCD-833(6/8/99), which is incorporated by reference as if set forth in full, may be downloaded from the Department's internet web site at www.hcd.ca.gov. This form can be obtained from the Department by telephoning 916-323-7288.

(b) A Relocation Plan shall include the following:

(1) A diagrammatic sketch of the project area.

(2) Projected dates of displacement.

(3) A written analysis of the aggregate relocation needs of all persons to be displaced (as required by section 6048) and a detailed explanation as to how these needs are to be met.

(4) A written analysis of relocation housing resources (as required by section 6052).

(5) A detailed description of the relocation advisory services program, including specific procedures for locating and referring eligible persons to comparable replacement housing.

(6) A description of the relocation payments to be made (pursuant to Article 3) and a plan for disbursement.

(7) A cost estimate for carrying out the plan and identification of the source of the necessary funds.

(8) A detailed plan by which any last resort housing (as described in section 6054 and Article 4) is to be built and financed.

(9) A standard information statement to be sent to all renters who will be permanently displaced (as required by section 6046).

(10) Temporary relocation plans, if any.

(11) A description of relocation office operation procedures.

(12) Plans for citizen participation.

(13) An enumeration of the coordination activities undertaken (pursuant to section 6052).

(14) The comments of the relocation committee, if any (pursuant to section 6012).

(15) A written determination by the public entity that the necessary resources will be available as required.

(c) A Plan prepared by a local public entity shall be consistent with the local housing element.

(d) In the event of delay of more than one year in the implementation of the relocation program, the plan shall be updated prior to implementation of that program.

(e)(1) Copies of the plan shall be submitted for review to the relocation committee 30 days prior to submission to the local legislative body or head of state agency for approval. Copies shall be available to the public upon request. A copy of the final relocation plan shall be forwarded to the department which shall act as a central repository.

(2) General notice of the plan shall be provided. Notice shall be designed to reach the occupants of the property; it shall be in accordance with the provisions of paragraph 6046(a)(3) and subsection 6046(b); and it shall be provided 30 days prior to submission to the local legislative body or head of state agency for approval.

(f) Any displaced person or interested organization may petition the department to review the relocation plan required to be submitted by the displacing agency. The department shall review the plan in accordance with the time constraints and the procedures established in Article 5.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Sections 7260.5 and 7261, Government Code.

HISTORY

1. Amendment of subsection (c) filed 1-28-77 as procedural and organizational; effective upon filing (Register 77, No. 5).
2. Amendment of subsections (a) and (c)-(e)(1), new subsection (f) and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).
3. Amendment of subsections (a), (b)(9) and (e)(1) filed 10-7-99; operative 11-6-99 (Register 99, No. 41).

§ 6040. Minimum Requirements of Relocation Assistance Advisory Program.

(a) Each relocation assistance advisory program undertaken pursuant to this Article shall include, at a minimum, such measures, facilities or services as may be necessary or appropriate in order to:

(1) Fully inform eligible persons under this Article within 60 days following the initiation of negotiations but not later than the close of escrow on the property, for a parcel as to the availability of relocation benefits and assistance and the eligibility requirements therefor, as well as the procedures for obtaining such benefits and assistance, in accordance with the requirements of section 6046. For projects by private parties with an agreement with a public entity, the "initiation of negotiations" shall be the later of the date of acquisition or the date of the written agreement between the private entity and the public entity for purposes of acquiring or developing the property for the project.

(2) Determine the extent of the need of each such eligible person for relocation assistance in accordance with the requirements of section 6048.

(3) Assure eligible persons that within a reasonable period of time prior to displacement there will be available comparable replacement housing, meeting the criteria described in section 6008(c), sufficient in number and kind for and available to such eligible persons.

(4) Provide current and continuing information on the availability, prices, and rentals of comparable sales and rental housing, and of comparable commercial properties and locations, and as to security deposits, closing costs, typical down payments, interest rates, and terms for residential property in the area.

(5) Assist each eligible person to complete applications for payments and benefits.

(6) Assist each eligible, displaced person to obtain and move to a comparable replacement dwelling.

Only adequate inspection will insure that a particular unit meets this standard. If a displaced person occupies a unit to which he is referred by the public entity and the unit does not satisfy the comparable replacement dwelling standard, the public entity has not fulfilled its obligation to assist the displaced person to obtain such a dwelling. Whenever this occurs the public entity shall offer to locate such a dwelling for the displaced per-

son and to pay again all moving and related expenses. If the displaced person chooses not to move from the unit that he occupied following referral, the public entity shall not assert that he is ineligible to receive relocation assistance and benefits on the basis of that unit's failure to satisfy the comparable replacement dwelling standard.

(7) Assist each eligible person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location.

(8) Provide any services required to insure that the relocation process does not result in different or separate treatment on account of race, color, religion, national origin, sex, marital status, familial status, or any basis protected by state or federal anti-discrimination laws, or any other arbitrary circumstances.

(9) Supply to such eligible persons information concerning federal and state housing programs, disaster loan and other programs administered by the Small Business Administration, and other federal or state programs, offering assistance to displaced persons.

(10) Provide other advisory assistance to eligible persons in order to minimize their hardships. It is recommended that, as needed, such assistance include counseling and referrals with regard to housing, financing, employment, training, health and welfare, as well as other assistance.

(11) Inform all persons who are expected to be displaced about the eviction policies to be pursued in carrying out the project, which policies shall be in accordance with the provisions of section 5058.

(b) Relocation Office.

When a substantial number of persons will be displaced and the relocation staff's office is not easily accessible to those persons, a displacing entity is encouraged to establish at least one appropriately equipped site office which is accessible to all the area residents who may be displaced and is staffed with trained or experienced relocation personnel. Office hours should be scheduled to accommodate persons unable to visit the office during normal business hours.

(c) Each displacing entity shall establish and maintain a formal grievance procedure for use by displaced persons seeking administrative review of the entity's determinations. The procedure shall be in accordance with the requirements of Article 5.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Sections 7260.5 and 7261, Government Code.

HISTORY

1. Amendment of subsections (a)(1) and (a)(8) and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6042. Replacement Housing Prior to Displacement; Notices to Displaced Persons.

(a) No eligible person shall be required to move from his dwelling unless within a reasonable period of time prior to displacement comparable replacement dwellings (as defined in subsection 6008(c)) or, in the case of a temporary move (as defined in section 6044), adequate replacement dwellings (as defined in subsection (b) below) are available to such person.

(b) The criteria for adequate replacement dwellings are in all respects identical to those for comparable replacement dwellings, except that an adequate replacement dwelling, with respect to the number of rooms, habitable living space and type of construction, need be only adequate not comparable.

(c) Reasonable Offer of Replacement Housing.

The requirements of this section shall be deemed to have been satisfied if a person is offered and refuses without justification reasonable choices of specifically identified comparable replacement dwellings which fully satisfy the criteria set forth in the Guidelines. The offers shall be in writing, in a language understood by the displaced person. The number of offers determined to be reasonable should be not less than three.

(d) Notice.

No eligible person occupying property shall be required to move from a dwelling or to move a business or farm operation, without at least 90 days written notice from the public entity requiring the displacements. Public entities shall notify each individual tenant to be displaced as well as each owner-occupant. (These requirements are in addition to those contained in sections 6040 and 6046.)

(e) Waiver.

The requirement in subsection (a) above may be waived only when immediate possession of real property is of crucial importance and by one of the following circumstances:

(1) When displacement is necessitated by a major disaster as defined in Section 102(2) of the Hazard Mitigation and Relocation Assistance Act of 1993 (42 U.S.C. 5121) and/or the California Natural Disaster Assistance Act.

(2) During periods of declared national or state emergency.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Sections 7260.5, 7261 and 7264.5, Government Code.

HISTORY

1. Amendment of subsections (a) and (e)(1) and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6044. Temporary Move.

(a) General.

(1) A public entity shall be required to minimize to the greatest extent feasible the use of temporary relocation resources (as defined in section 6042) but, when a project plan anticipates moves back into completed project accommodations, temporary relocation resources may be used, at the displaced person's election for a limited period of time.

(2) Temporary relocation does not diminish the responsibility of the pubic entity to provide relocation assistance, services and benefits designed to achieve permanent relocation of displaced persons into comparable replacement dwellings.

(b) Requirements.

(1) Temporary replacement housing may not be relied upon if comparable replacement housing will not be available to the displaced person within 12 months of the date of the temporary move.

(2) Prior to the move, the public entity shall have determined and have provided written assurance to each displaced person that:

(A) Comparable replacement housing will be made available at the earliest possible time but in any event no later than 12 months from the date of the move to temporary housing. Temporarily housed persons may agree to extend the 12 month limitation but, if they do not, the public entity shall ensure that comparable replacement dwellings are available within the 12 month period.

(B) Comparable replacement housing will be made available, on a priority basis, to the individual or family who has been temporarily rehoused.

(C) The move to temporary housing will not affect a claimant's eligibility for a replacement housing payment nor deprive him of the same choice of replacement housing units that would have been made available had the temporary move not been made and the costs of a temporary move will not be considered as all or a part of the relocation payments to which a displaced person is entitled.

(D) If a project plan anticipates moves back into replacement housing accommodations in the project or program area, the person who has been temporarily displaced will be given priority opportunity to obtain such housing accommodations.

(E) The public entity will pay all costs in connection with the move to temporary housing, including increased housing costs.

§ 6046. Informational Program.

(a) Basic Requirements.

The displacing entity shall establish and maintain an information program that provides for the following:

(1) Preparation and distribution of informational material as early as practicable, to each occupant of the property. This material shall be distributed within 60 days following the initiation of negotiations (see paragraph 6040(a)(1)) and not less than 90 days in advance of displacement except for those situations described in subsection 6042(e). Where appropriate, separate informational statements shall be prepared for residential and for non-residential occupants.

(2) Conducting personal interviews and maintaining personal contacts with occupants of the property to the maximum extent practicable.

(3) Utilizing meetings, newsletters, and other mechanisms, including local media available to all persons, for keeping occupants of the property informed on a continuing basis. The criterion for selecting among various alternatives shall be the likelihood of actually communicating information to such persons. Legal publications, legal ads in local newspapers of general circulation and similar means which may go unnoticed are deemed to be inadequate.

(b) Language. Informational material should be prepared in the language(s) most easily understood by the recipients. In displacement areas where there are significant concentrations of persons who do not read, write, or understand English fluently, the native language of the people should be used and all informational material should be provided in the native language(s) and English.

(c) Method of Delivery. To assure receipt of the informational material, the local agency should arrange to have the material either hand-delivered to each occupant of the property with a request for a written receipt, or sent by certified mail, return receipt requested.

(d) General and Specific Information. In addition to disseminating general information of the type described in this section, the displacing entity shall also provide each person with individual, written notification as soon as his eligibility status has been established.

(e) Content of Informational Statement. Attachment A identifies the kinds of information required to be included in statements distributed to occupants of the property. The figure lists minimum requirements. The displacing entity should include any additional information that it believes would be helpful. (See Attachment A.)

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Sections 7260, 7260.5 and 7261, Government Code.

HISTORY

1. Amendment of subsection (a)(1) filed 11-5-76 as an emergency; designated effective 11-27-76 (Register 76, No. 44).
2. Certificate of Compliance filed 2-16-77 (Register 77, No. 8).
3. Amendment of subsection (a)(1) and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6048. Survey and Analysis of Relocation Needs.

(a) (1) Requirement. Immediately following the initiation of negotiations interview all eligible persons, business concerns, including nonprofit organizations, and farm operations to obtain information upon which to plan for housing and other accommodations, as well as counseling and assistance needs.

(2) Coordination with Other Agencies. Other agencies may also be conducting surveys in the area at the same time. Coordination will be necessary to avoid duplication and to ensure that necessary information is available at the appropriate time. Surveys utilized to gather data for social service referrals should be planned in cooperation with social service agencies and a referral system should be established.

(3) Information to Persons to Be Displaced. The local agency shall carefully explain and discuss fully with each person interviewed the purpose of the survey and the nature and extent of relocation payments and assistance that will be made available. All persons shall be advised and encouraged to visit the relocation office for information and assistance.

(4) Relocation Records. Based on information obtained during the survey and other sources as applicable, the local agency shall prepare and maintain an accurate relocation record for each person to be displaced. The record shall contain a description of the pertinent characteristics of the persons to be displaced and the assistance deemed to be necessary.

(b) The survey shall be by direct, personal interview, except where repeated efforts indicate that is not possible. When a person cannot be interviewed or the interview does not produce the information to be obtained reasonable efforts shall be made to obtain the information by other means. Eligible persons should be encouraged to bring any change in their needs to the attention of relocation officials. The survey shall be updated at least annually.

(c) A public entity shall endeavor to obtain the following information: income; whether a person is elderly or handicapped; size of family; age of children; location of job and factors limiting accessibility; area of preferred relocation; type of unit preferred; ownership or tenant preference; need for social and public services, special schools and other services; eligibility for publicly assisted housing; and with reference to the present dwelling, the rent, the type and quality of construction, the number of rooms and bedrooms, the amount of habitable living space, and locational factors including among others public utilities, public and commercial facilities (including transportation and schools) and neighborhood conditions (including municipal services). Other matters that concern a household as its members contemplate relocation should also be included.

(d) A written analysis of relocation housing needs shall be prepared. It shall be prepared in sufficient detail to enable determination of the availability for all potential displaces of housing which meets the standards set forth in the definition of comparable replacement housing. The information concerning home ownership and rental units shall be provided separately. The number of units needed shall be identified by cost for each size category. The needs of elderly and handicapped households shall be shown separately and shall include information on the number of such households requiring special facilities and the nature of such facilities.

The statement of relocation housing needs shall include a description of the locational characteristics of the displacement area neighborhoods corresponding to the requirements of comparable replacement housing. Information shall be provided concerning proximity to present employment sources, medical and recreational facilities, parks, community centers, shopping, transportation and schools. Information concerning proximity to other relevant needs and amenities is essential to ensuring that no residents are incapacitated by the relocation and such information also should be provided.

§ 6050. Failure to Conduct Timely and Effective Survey.

When a survey is not conducted in a timely and effective manner, the public entity shall be obligated to make every effort to locate all eligible persons who have moved so that their needs can be included in the survey and the impact on the housing stock in the community can be more accurately determined. The public entity shall offer such persons all relocation assistance and benefits for which they otherwise qualify and, in addition, shall compensate such persons for all costs occasioned by the entity's failure to provide timely notice and offers of relocation assistance and benefits.

§ 6052. Survey and Analysis of Available Relocation Resources.

(a) (1) To enable a public entity reasonably to determine that the requisite comparable replacement dwellings will be available, the public entity, within 60 days following the initiation of negotiations, shall initiate a survey and analysis of available comparable relocation resources.

If a recent survey that provides the information identified in this section is not available, the public entity shall conduct a survey and analysis of the housing market. If a recent survey is available, but it does not reflect more recent, significant changes in housing market conditions, the survey shall be updated or it shall not be relied upon.

(2) When more than 15 households will be displaced, survey results shall be submitted for review to local housing, development and planning agencies and shall be compared to other existing information on housing availability.

(3) The survey shall be updated at least annually.

(b) The survey area shall be reasonably related to the displacement area and to the needs and preferences of the persons to be displaced, as indicated in the written analysis prepared pursuant to section 6048. The survey area shall have relevant characteristics (see subsection 6008(c)) which equal or exceed those of the neighborhood from which persons are to be displaced.

(c) A written analysis of relocation housing resources shall be prepared in sufficient detail to enable determination of the availability for all potential displacees of housing which meets the standards set forth in the definition of comparable replacement housing. The information concerning homeownership and rental units shall be provided separately. The number of units available shall be identified by cost for each size category. Resources available to meet the needs of elderly and handicapped households shall be shown separately and shall include information on the number of units with special facilities and the nature of such facilities.

The analysis of resources shall include a description of the locational characteristics of the survey area neighborhoods corresponding to the requirements of comparable replacement housing. Information shall be provided concerning proximity to present employment sources (with the consent of the displaced person a potential employer may be substituted), medical and recreational facilities, parks, community centers, shopping, transportation and schools. Information concerning proximity to other relevant needs and amenities is essential to ensuring that residents are not incapacitated by the relocation and such information should also be provided.

(d) (1) Units which do not satisfy the standards of comparable replacement housing, including the locational criteria, shall not be counted as a relocation resource.

(2) Uncompleted new construction or rehabilitation shall not be included in the gross figure unless there is a substantial likelihood that the units will be available when needed and at housing or rental costs within the financial means of the prospective occupants.

(3) In addition to the other requirements of this section, the gross figure representing the number of units available shall be discounted to reflect both concurrent displacement and the extent to which turnover is represented. Concurrent displacement by the federal government and its agencies, including federally-assisted projects, as well as displacement by other public entities shall be taken into account. Turnover is the dynamic operation by which occupancy changes occur within a standing inventory over a period of time and theoretically could occur in the complete absence of vacancies on a person to person basis. The use of turnover for relocation is not permissible. The displacing entity shall assume that four percent of the rental and one percent of the ownership units which meet the standards of comparable replacement dwellings (see section 6008(c)) represents turnover. The displacing entity shall use a higher percentage figure if such figure is more accurate. The displacing entity may use a lower figure if it establishes that the lower figure is a more accurate assumption.

(4) Publicly subsidized housing, including public housing, shall not be counted as a resource unless it reasonably can be established that:

(A) The units will be available when needed;

(B) The governmental body providing the subsidy has made, in writing, a reasonably binding commitment of assistance; and

(C) The units have been inspected and determined to be decent, safe and sanitary and the income ceilings, rent ranges and age restrictions, if any, have been considered.

(D) The number of units available in the community exceeds the number of households in need of the units. This requirement may be waived by the department if the public entity can establish that such units will be replaced by last resort housing within two years. To establish that last resort housing will be developed as required the public entity must have site control with permissive zoning, preliminary plans and conditional commitments for subsidy and financing or the equivalent. The public entity also must identify ownership.

(e) Uncompleted new construction or rehabilitation which is subsidized by public funds shall not be counted as a relocation resource unless the units are being subsidized to provide relocation resources.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Sections 7260.5 and 7261, Government Code.

HISTORY

1. Amendment of subsections (a)(1) and (a)(2), correction of subsection (e) designator, and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6054. Last Resort Housing.

(a) No eligible person shall be required to move from his dwelling because of the action of a public entity unless comparable replacement housing is available to him.

(b) If on the basis of its survey and analysis of relocation needs and resources a public entity cannot determine that comparable replacement housing will be available as required, the public entity may not proceed with any phase of a project or other activity which will result in displacement unless it provides such housing. (See Article 4.)

(c) If the action of a public entity has resulted or is resulting in displacement and comparable replacement housing is not available as needed, the public entity shall use its funds, or funds authorized for the project to provide such housing (see Article 4), or shall terminate or suspend further implementation of the project activity in accordance with the provisions of section 6018.

(d) Temporary relocation resources may be relied upon in the interim only if the provisions of section 6004 are satisfied.

§ 6056. Termination of Relocation Assistance.

A public entity's relocation obligations cease under the following circumstances:

(a) A displaced person moves to a comparable replacement dwelling and receives all assistance and payments to which he is entitled.

(b) The displaced person moves to substandard housing, refuses reasonable offers of additional assistance in moving to a decent, safe and sanitary replacement dwelling and receives all payments to which he is entitled.

(c) All reasonable efforts to trace a person have failed. To ensure that the action of a public entity does not reduce the housing supply in critical categories or locations, unsuccessful efforts to trace a particular displaced person shall not lessen the obligation to provide last resort housing. (See Article 4.)

(d) The business concern or farm operation has received all assistance and payments to which it is entitled and has been successfully relocated or has ceased operations.

(e) A person displaced from his dwelling, business or farm refuses reasonable offers of assistance, payments and comparable replacement housing.

§ 6058. Eviction.

(a) Eviction is permissible only as a last resort. It in no way affects the eligibility of evicted displaced persons for relocation payments. Relocation records must be documented to reflect the specific circumstances surrounding the eviction.

(b) Eviction shall be undertaken only for one or more of the following reasons:

(1) Failure to pay rent, except in those cases where the failure to pay is due to the lessor's failure to keep the premises in habitable condition, is the result of harassment or retaliatory action or is the result of discontinuation or substantial interruption of services.

(2) Performance of a dangerous, illegal act in the unit.

(3) Material breach of the rental agreement and failure to correct breach within 30 days of notice.

(4) Maintenance of a nuisance and failure to abate within a reasonable time following notice.

(5) Refusal to accept one of a reasonable number of offers of replacement dwellings.

(6) The eviction is required by State or local law and cannot be prevented by reasonable efforts on the part of the public entity.

§ 6060. Evaluation of Relocation.

(a) A public entity is encouraged to evaluate its relocation program, assessing the quality and quantity of services provided as well as displacee satisfaction, to determine the adequacy of program planning and to ascertain whether any persons have been denied the full benefits and services to which they are entitled. The evaluation should be based upon an annual or continual inspection of files and records, case interviews, and inspection of replacement housing and business and farm replacement

locations and discussions with local individuals or organizations familiar with relocation issues. A written evaluation should be prepared at least annually.

(b) The files and records of displaced persons and property owners should be selected at random. The review should include any cases that were identified by previous monitoring as requiring corrective action and should assess the public entity's progress in taking corrective action. Both relocation and acquisition activities should be covered by the review.

(1) The relocation sample should include cases in which all payments have been completed and cases in which the person has been displaced but all payments have not yet been made. The sample should provide a basis for the reviewer to determine not only whether payments were computed properly and made promptly, but also whether displaced persons received proper notice of the full range of relocation assistance and services to which they are entitled. Priority attention should be given to cases in which a grievance has been filed or the agency has determined that a person is ineligible for relocation benefits.

(2) The acquisition sample should be based on cases in which settlement has been completed. However, if necessary to provide a representative sample of acquisition activities, the reviewer should include incomplete transactions in which negotiations have been initiated.

(c) After the records and files have been reviewed, the reviewer should select cases for further evaluation through personal interviews with displaced persons and/or owners and the inspection of housing to which persons have moved. The interviews and housing inspections should serve both to spot check the accuracy of the information obtained in the examination of the records and files and give the reviewer a better perspective on the agency's performance.

The number and type of cases for which interviews and housing inspections are to be carried out should reflect the reviewer's judgment based on the information he has just reviewed. Generally, an interview and inspection should be carried out for at least one of every five cases for which the files and records have been reviewed. Only where the number of persons displaced is less than 25 should the number of interviews and inspections be less than 10. In no case should the number of interviews and inspections be lower than the lesser of five and the number of persons displaced. To the extent possible, the interviews should cover a representative cross section of the types of cases in the agency's workload: e.g., relocation cases involving families of various sizes as well as individuals and business concerns (including both owners and tenants), and acquisition transactions involving residential, commercial and industrial properties.

(d) In addition to the above, the following factors are among those which should be considered:

(1) The effectiveness of efforts to provide relocation services to displaced persons, including timeliness of notice and correctness of eligibility determinations.

(2) The satisfaction of relocated families, individuals and business concerns in their new locations.

(3) The extent to which self-moves to substandard housing have been minimized.

(4) The effectiveness of efforts to provide relocation services to business concerns, including counseling services and SBA loans to aid in their reestablishment.

(5) The promptness of processing claims and the making of payments, including the amounts, delivery, and use of relocation payments.

(6) The number and magnitude of rent increases following acquisition and displacement.

(7) The effectiveness of methods used to resolve difficulties experienced by site occupants.

(8) The effectiveness of the public entity's grievance procedures.

(9) The extent of resident involvement in planning the relocation program.

(10) The effectiveness in assuring equal opportunity for displaced persons and in reducing patterns of minority-group concentration.

(11) The effectiveness of relocation in upgrading the housing and overall environmental conditions of persons displaced.

(12) The effectiveness of the social service program, including counseling services, in helping residents adjust to relocation and in helping solve individual and family problems.

(13) The impact on those segments of the housing market serving the income groups displaced.

Article 3. Relocation Payments

§ 6080. Purpose.

The purpose of this Article is to set forth the types of, and specific eligibility criteria for, relocation payments to displaced persons. Basic eligibility conditions are set forth in section 6084. Specific conditions relating to particular payments are described in later sections.

§ 6082. Relocation Payments by Public Entity.

A public entity shall make relocation payments to or on behalf of eligible displaced persons in accordance with and to the full extent permitted by this Article. The obligations described in this Article are in addition to those in Article 6.

§ 6084. Basic Eligibility Conditions.

A person establishes basic eligibility for relocation payments if he satisfies the conditions described in section 6034. A person who moves from real property or who moves his personal property from real property because he will be displaced from other real property on which he conducts a business or farm operation, establishes eligibility on the basis of the move from such other property only for payments made pursuant to section 6090.

§ 6086. Notice of Intent to Displace.

A public entity may issue a written Notice of Intent to Displace at any time after forming a reasonable expectation of acquiring real property. Such a notice, by establishing eligibility prior to acquisition, will enable a public entity to respond to hardship and other situations.

§ 6088. Filing of Claims; Submission of Tax Returns.

All claims filed with the public entity shall be submitted within eighteen months of the date on which the claimant receives final payment for the property or the date on which he moves, whichever is later. The displacing entity may extend this period upon a proper showing of good cause.

Except where specifically provided otherwise a claimant shall not be required to submit a copy of his tax returns in support of a claim for relocation payments.

§ 6090. Actual Reasonable Moving Expenses.

(a) General. A public entity shall make a payment to a displaced person who satisfies the pertinent eligibility requirements of section 6084 and the requirements of this section, for actual reasonable expenses specified below and subject to the limitations set forth in subsection (c) of this section for moving himself, his family, business, farm operation or other personal property. In all cases the amount of a payment shall not exceed the reasonable cost of accomplishing the activity in connection with which a claim has been filed.

The moving and related expenses for which claims may be filed shall include:

(1) Transportation of persons and property not to exceed a distance of 50 miles from the site from which displaced, except where relocation beyond such distance of 50 miles is justified;

(2) Packing, crating, unpacking and uncrating personal property;

(3) Such storage of personal property, for a period generally not to exceed 12 months, as determined by the public entity to be necessary in connection with relocation;

(4) Insurance of personal property while in storage or transit; and

(5) The reasonable replacement value of property lost, stolen or damaged (not through the fault or negligence of the displaced person, his

agent, or employee) in the process of moving, where insurance covering such loss, theft or damage is not reasonably available.

(6) The cost of disconnecting, dismantling, removing, reassembling, reconnecting and reinstalling machinery, equipment or other personal property (including goods and inventory kept for sale) not acquired by the public entity, including connection charges imposed by public utilities for starting utility service.

(b) Actual Reasonable Moving Expenses—Displaced Business Concerns and Farm Operations.

In addition to those compensable expenses set forth in subsection (a) of this section, a displaced business concern or farm operation may file a claim for the following moving and related expenses:

(1) The cost, directly related to displacement of modifying the machinery, equipment, or other personal property to adapt it to the replacement location or to utilities available at the replacement location or modifying the power supply.

(2) Claims for payment under this subsection shall be subject to the following limitations:

(A) Reimbursable costs shall be reasonable in amount.

(B) The cost could not be avoided or substantially reduced at an alternate available and suitable site to which the business was referred.

(3) The cost of any license, permit or certification required by a displaced business concern to the extent such cost is necessary to the reestablishment of its operation at a new location.

(4) The reasonable cost of any professional services (including but not limited to, architects', attorneys' or engineers' fees, or consultants' charges) necessary for planning the move of personal property, moving the personal property, or installation of relocated personal property at the replacement site.

(5) Where an item of personal property which is used in connection with any business or farm operation is not moved but is replaced with a comparable item, reimbursement in an amount not to exceed (1) the replacement cost, minus any net proceeds received from its sale, or (2) the estimated cost of moving, whichever is less.

(c) Advance Payments. A displaced person may be paid for his anticipated moving expenses in advance of the actual move. A public entity shall provide advance payment whenever later payment would result in financial hardship. Particular consideration shall be given to the financial limitations and difficulties experienced by low and moderate income persons and small farm and business operations.

(d) The specific provisions contained in this section are not intended to preclude a public entity's reliance upon other reasonable means of effecting a move, including contracting moves and arranging for assignment of moving expense payments by displaced persons.

(e) Self–moves. Without documentation of moving expenses actually incurred, a displaced person electing to self–move may submit a claim for his moving expenses to the public entity in an amount not to exceed an acceptable low bid or an amount acceptable to the displacing entity.

(f) Personal Property of Low Value and High Bulk—Business or Farm Operation. Where, in the judgment of the public entity, the cost of moving any item of personal property of low value and high bulk which is used in connection with any business or farm operation would be disproportionate in relation to its value, the allowable reimbursement for the expense of moving such property shall not exceed the difference between the cost of replacing the same with a comparable item available on the market and the amount which would have been received for such property on liquidation. This provision may in appropriate situations be applied to claims involving the moving of junkyards, stockpiles, sand, gravel, minerals, metals and similar property.

(g) Documentation in Support of a Claim.

(1) General. Except in the case of a displaced person conducting a self–move as provided in subsection (e) above, a claim for a payment under this section shall be supported by a bill or other evidence of expenses incurred. By prearrangement between the public entity, the site occupant, and the mover, evidenced in writing, the claimant or the mover may present an unpaid moving bill to the public entity, and the public entity may pay the mover directly.

(2) Business and Farm Operations. Each claim in excess of $1,000 for the costs incurred by a displaced person for moving his business or farm operation shall be supported by competitive bids in such number as are practical. If the public entity determines that compliance with the bid requirement is impractical or if estimates in an amount of less than $1,000 are obtained, a claim may be supported by estimates in lieu of bids.

(h) Whenever a public entity must pay the actual cost of moving a displaced person the costs of such move shall be exempt from regulation by the Public Utilities Commission as provided by section 7262(e) of the Act. The public entity may solicit competitive bids from qualified bidders for performance of the work. Bids submitted in response to such solicitations shall be exempt from regulation by the Public Utilities Commission.

(i)(1) Reestablishment Expenses. In addition to moving expense payments, a farm, nonprofit organization or small business of not more than 500 employees, shall be entitled to actual and reasonable reestablishment expenses, not to exceed $10,000.00. Reestablishment expenses shall be only those expenses that are reasonable and necessary and include, but are not limited to:

(A) Repairs or improvements to the replacement property as required by Federal, State or local law, code or ordinance.

(B) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

(C) Construction and installation costs for exterior signing to advertise the business.

(D) Provision of utilities from right–of–way to improvements on the replacement site.

(E) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, panelling or carpeting.

(F) Licenses, fees and permits when not paid as part of moving expenses.

(G) Feasibility surveys, soil testing and marketing studies.

(H) Advertisement of replacement location.

(I) Professional services in connection with the purchase or lease of a replacement site.

(J) Estimated increased costs of operation during the first 2 years at the replacement site for such items as:

1. Lease or rental charges,
2. Personal or real property taxes,
3. Insurance premiums, and
4. Utility charges, excluding impact fees.

(K) Impact fees or one–time assessments for anticipated heavy usage.

(L) Other items essential to the reestablishment of the business.

(M) For purposes of this subsection the term "small business" shall mean a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a small business for purposes of this subsection.

(2) Ineligible expenses. The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

(A) Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.

(B) Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

(C) Interior or exterior refurbishments at the replacement site which are for aesthetic purposes, except as provided in paragraph (i)(1)(E) of this section.

(D) Interest on money borrowed to make the move or purchase the replacement property.

(E) Payment to a part-time business in the home which does not contribute materially to the household income.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Section 7262(a)(4), Government Code.

HISTORY

1. Amendment of section and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6092. Actual Direct Losses of Tangible Personal Property.

(a) General. A public entity shall make a payment to a displaced person who satisfies the eligibility requirements of section 6090 and this section, for actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, in an amount determined by the public entity to be in accordance with the provisions of this section.

(b) Determining Actual Direct Loss of Property. Actual direct loss of property shall be determined on the basis of the lesser of the following:

(1) The fair market value of the property for continued use at its location prior to displacement.

(2) The estimated reasonable costs of relocating the property.

The public entity may require that the owner first make a bona fide effort to sell the property or it may permit the owner not to do so. The proceeds realized from any sale of all or part of the property shall be deducted from the determination of loss. In calculating payment under this section the reasonable cost of an effort to sell shall be added to the determination of loss.

(c) Documentation to Support Claim. A claim for payment hereunder shall be supported by written evidence of loss which may include appraisals, certified prices, bills of sale, receipts, cancelled checks, copies of advertisements, offers to sell, auction records, and other records appropriate to support the claim or the public entity may agree as to the value of the property left in place.

§ 6094. Actual Reasonable Expenses in Searching for a Replacement Business or Farm.

A displaced person who satisfies the pertinent eligibility requirements of section 6090 with respect to actual reasonable moving expenses, shall be eligible for a payment in an amount not to exceed $1,000, in searching for a replacement business or farm, including expenses incurred for:

(a) Transportation;

(b) Meals and lodging away from home;

(c) Time spent in searching, based on the hourly wage rate of the salary or earnings of the displaced person or his representative; and

(d) Fees paid to a real estate agent or broker to locate a replacement business or farm.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Section 7262(a)(3), Government Code.

HISTORY

1. Amendment of first paragraph and subsection (c) and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6096. Moving Expenses—Outdoor Advertising Businesses.

A displaced person who conducts a lawful activity primarily for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of outdoor advertising displays is entitled to payment for the reasonable cost of moving such displays or their in-place value, whichever is lesser.

§ 6098. Alternate Payments—Individuals and Families.

A person or family, who is displaced from a dwelling and is eligible for a payment for actual reasonable moving expenses under section 6090, may elect to receive and shall be paid, in lieu of such payment a moving expense and dislocation allowance determined in accordance with established Federal Highway Administration schedules maintained by the California Department of Transportation.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Section 7262(b), Government Code.

HISTORY

1. Amendment of subsection (a) filed 11-5-76 as an emergency; designated effective 11-27-76 (Register 76, No. 44).
2. Certificate of Compliance filed 2-16-77 (Register 77, No. 8).
3. Amendment of section and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6100. Alternate Payments—Businesses and Farm Operations.

(a) General.

(1) A person who is displaced from his place of business or farm operation and is eligible for payments under sections 6090, 6092, 6094, or 6096, and complies with the requirements of this section, may elect to receive and shall be paid, in lieu of such payments, a payment equal to the average annual net earnings of the business or farm operation (but not including a business as described in section 6096) as determined in accordance with subsection (b) below, except that such payment shall be not less than $1,000 nor more than $20,000. For purposes of this section, the dollar limitation specified in the preceding sentence shall apply to a single business, regardless of whether it is carried on under one or more legal entities.

(2) Loss of Goodwill. When payment under this section will precede settlement of a claim for compensation for loss of goodwill under the Eminent Domain Law, the public entity before tendering payment shall state in writing what portion of the payment, if any, is considered to be compensation for loss of goodwill and shall explain in writing that any payment made pursuant to Code of Civil Procedure, Sections 1263.510 *et seq.* (the Eminent Domain Law, Chapter 9, Article 6—"Compensation for Loss of Goodwill") will be reduced in the same amount. The portion considered to be compensation for loss of goodwill shall not exceed the difference between the payment made under this section and an amount which reasonably approximates the payments for which the displaced person otherwise would be eligible under Sections 6090, 6092, 6094, and 6096. Failure to provide such written statement and explanation shall constitute a conclusive indication that no portion of the payment is considered to be compensation for loss of goodwill for the purposes of that portion of the Code of Civil Procedure referenced above.

(b) Requirements—Businesses. Payment shall not be made under this section unless the public entity determines that:

(1) The business is not operated solely for rental purposes and cannot be relocated without a substantial loss of its existing patronage, based on a consideration of all pertinent circumstances including such factors as the type of business conducted, the nature of the clientele, the relative importance to the displaced business of its present and proposed location, and the availability of a suitable relocation site;

(2) The business is not part of a commercial enterprise having no more than three (3) other establishments which are not being acquired for a project and which is engaged in the same or similar business. Whenever the sole remaining facility of a business which has been displaced from its principal location:

(A) Has been in operation for less than two years;

(B) Has had average annual gross receipts of less than $2,000 during the two taxable years prior to displacement of the major component of the business; or

(C) Has had average annual net earnings of less than $1,000 during the two taxable years prior to the displacement of the major component of the business, the remaining facility will not be considered another "establishment" for purposes of this section; and

(3) The displaced business:

(A) Had average annual gross receipts of at least $5,000 during the two taxable years prior to displacement; or

(B) The displaced business had average annual net earnings of at least $1,000 during the two taxable years prior to displacement; or

(C) The displaced business contributed at least 33 1/3 percent of the total gross income of the owner(s) during each of the two taxable years prior to displacement. If in any case the public entity determines that the two year period prior to displacement is not representative of average re-

ceipts, earnings or income, it may make use of a more representative period.

(D) If the application of the above criteria creates an inequity or hardship, the displacing agency may use other criteria as permitted in 49 CFR 24.306.

(c) Determination of Number of Businesses.

In determining whether one or more legal entities, all of which have been acquired, constitute a single business, the following factors among others shall be considered:

(1) The extent to which the same premises and equipment are shared.

(2) The extent to which substantially identical or intimately interrelated business functions are pursued and business and financial affairs are commingled.

(3) The extent to which such entities are held out to the public, and to those customarily dealing with such entities, as one business.

(4) The extent to which the same person or closely related persons own, control or manage the affairs of the entities.

(d) Requirements—Farms. In the case of a farm operation, no payment shall be made under this section unless the public entity determines that the farm met the definition of a farm operation prior to its acquisition. If the displacement is limited to only part of the farm operation, the operator will be considered to have been displaced from a farm operation if: the part taken met the definition of a farm operation prior to the taking and the taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

(e) Requirements—Nonprofit Organizations. In the case of a nonprofit organization, no payment shall be made under this section unless the public entity determines that:

(1) The nonprofit organization cannot be relocated without a substantial loss of its existing patronage (the term "existing patronage" as used in connection with a nonprofit organization includes the membership, persons, community, or clientele served or affected by the activities of the nonprofit organization); and

(2) The nonprofit organization is not a part of an enterprise having more than three (3) other establishments not being acquired which is engaged in the same or similar activity.

(f) Net Earnings. The term "average annual net earnings" as used in this section means one-half of any net earnings of the business or farm operation, before federal and state income taxes, during the two (2) taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for such project, or during such other period as the head of the public entity determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such period. The term "owner" as used in this section includes the sole proprietor in a sole proprietorship, the principal partners in a partnership, and the principal stockholders of a corporation, as determined by the public entity. For purposes of determining a principal stockholder, stock held by a husband, his wife and their dependent children shall be treated as one unit.

(g) If a displaced person who conducts a business or farm operation elects to receive a fixed payment under this section, he shall provide proof of his earnings from the business or farm operation to the agency concerned. Proof of earnings may be established by income tax returns, financial statements and accounting records or similar evidence acceptable to the public entity.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Section 7262(c), Government Code.

HISTORY

1. Amendment of subsection (e)(2) filed 11-5-76 as an emergency; designated effective 11-27-76 (Register 76, No. 44).
2. Certificate of Compliance filed 2-16-77 (Register 77, No. 8).
3. Amendment of subsections (a)(1)-(b)(2) and (b)(3)(A), new subsection (b)(3)(D), amendment of subsections (e)(2) and (f), and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6102. Replacement Housing Payments for Homeowners.

(a) General. A public entity shall make to a person who is displaced from a dwelling and who satisfies the pertinent eligibility requirements of section 6084 and the conditions of subsection (b) of this section, a payment not to exceed a combined total of $22,500 for:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired for the project equals the reasonable cost, as determined in accordance with subsection (c), of a comparable replacement dwelling. This amount shall not exceed the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling, except where a displaced person, in the circumstance described in paragraph 6108(a)(1), is willing to use the extra money to improve the condition of the dwelling.

(2) The amount, if any, to compensate the displaced person for any increased interest costs, as determined in accordance with subsection (c), he is required to pay for financing the acquisition of a replacement dwelling. The payment shall not be made unless the dwelling acquired by the public entity was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days prior to the initiation of negotiations for acquisition of such dwelling. (This time requirement may be modified in accordance with the provisions of subsection (b) below.)

(3) Reasonable expenses, determined in accordance with subsection (c) of this section, incurred by the displaced person incident to the purchase of the replacement dwelling.

(4) In accordance with section 6108, the cost of rehabilitating a dwelling which does not satisfy the decent, safe and sanitary standard.

(b) Eligibility Conditions.

(1) A displaced person is eligible for payment under this section if such person:

(A) Is displaced from a dwelling that is acquired;

(B) Has actually owned and occupied such dwelling for not less than 180 days prior to the initiation of negotiations for its acquisition; and

(C) Purchases and occupies a replacement dwelling within one year subsequent to the date on which he received final payment from the public entity of all costs of the acquired dwelling or the date on which he moves from the acquired dwelling, whichever is later.

(2) If an owner satisfies all but the 180 day requirement and can establish to the satisfaction of the public entity that he bought the dwelling with the intention of making it his place of residence, that the move was not motivated by a desire to receive relocation assistance and benefits, and that he neither knew nor should have known that public acquisition was intended the public entity may reduce the requirement as necessary.

(3) Where for reasons beyond the control of the displaced person completion of construction, rehabilitation, or relocation of a replacement dwelling is delayed beyond the date by which occupancy is required, the public entity shall determine the date of occupancy to be the date the displaced person enters into a contract for such construction, rehabilitation, or relocation or for the purchase, upon completion, of a dwelling to be constructed or rehabilitated, if, in fact, the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed.

(4) Where, for reasons of hardship or circumstances beyond the control of the displaced person, such person is unable to occupy the replacement dwelling by the required date, the public entity may extend the deadline as necessary. If by the deadline the displaced person has contracted to purchase a replacement dwelling, the public entity should extend the deadline.

(5) No person otherwise eligible for a payment under this section or under section 6104 shall be denied such eligibility as a result of his being unable, because of a major state or national disaster, to meet the occupancy requirements.

(c) Computation of Replacement Housing Payment.

(1) Cost of Comparable Replacement Dwelling.

(A) In determining the reasonable cost of a comparable replacement dwelling, the public entity concerned shall use one of the following methods:

1. Comparative Method. On a case–by–case basis by determining the listing price of dwellings which have been selected by the public entity and which are most representative of the acquired dwelling unit and meet the definition of comparable replacement dwelling set out in subsection 6008(c). Whenever possible the listing price of at least three dwellings shall be considered.

2. Schedule Method. Where the public entity determines that the comparative method is not feasible, it may establish a schedule of reasonable acquisition costs for the various types of comparable replacement dwellings. If more than one entity is administering a project causing displacement in the area, it shall cooperate with the other entities in establishing a uniform schedule for the area. The schedule shall be based on a current analysis of the market to determine a reasonable cost for each type of dwelling to be purchased. In large urban areas this analysis may be confined to the sub–area from which persons are displaced or may cover several different sub–areas, if they satisfy or exceed the criteria listed in subsection 6008(c). To assure the greatest comparability of dwellings in any analysis, the analysis shall be divided into classifications of the type of construction, number of bedrooms, and price ranges.

3. Alternative Method. Where the public entity determines that neither the schedule, nor comparative method is feasible in a given situation, by the use of another reasonable method.

(B) Whichever method is selected the cost shall be updated to within three months of the date of purchase of the replacement dwelling.

(2) Interest Payments. Interest payments shall be equal to the discounted present value of the difference between the aggregate interest applicable to the amount of the principal of the mortgage on the acquired dwelling over its remaining term at the time of acquisition, and other debt service costs, and the aggregate interest paid on the mortgage on the replacement dwelling, and other debt service costs. The term and amount of the mortgage on the replacement dwelling for purposes of this paragraph shall be the lesser of the remaining term and amount of the mortgage on the acquired dwelling, or the actual term and amount of the mortgage on the replacement dwelling. The amount of the debt service cost with respect to the replacement dwelling shall be the lesser of the debt service cost based on the cost required for a comparable dwelling, or the debt service cost based on the actual cost of the replacement dwelling.

Prepaid interest or "points" shall be considered in the determination of aggregate interest.

In calculating the amount of compensation, increased interest cost shall be reduced to discounted present value using the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(3) Expenses Incident to the Purchase of the Replacement Dwelling.

Payment under this section shall include the amount necessary to reimburse the displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling, including but not limited to the following: legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings or plats, and charges paid incident to recordation; lender, FHA, VA or similar appraisal cost; FHA, VA or similar application fee; cost for certification of structural soundness; credit report charges; charge for owner's and mortgagee's evidence or assurance of title; escrow agent's fee; and sales or transfer taxes. Payment for any such expenses shall not exceed the amount attributable to the purchase of a replacement dwelling. Such expenses shall be reasonable and legally required or customary in the community.

Reimbursement shall not be made under the provisions of this paragraph for any fee, cost, charge, or expense which is determined to be a part of the debt service or finance charge under Title I of the Truth in Lending Act (Pub. L. 90–321), and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System. Any such sum should be considered in the determination of interest payments.

(d) Multi–family Dwelling. In the case of a displaced homeowner who is required to move from a one–family unit of a multi–family building which he owns, the replacement housing payment shall be based on the cost of a comparable one–family unit in a multi–family building of approximately the same density or if that is not available in a building of the next less density, or, if a comparable one–family unit in such a multi–family building is not available, the cost of an otherwise comparable single–family structure.

(e) Owner Retention.

(1) If a displaced homeowner elects to retain, move, and occupy his dwelling, the amount payable under this section is the difference between the acquisition price of the acquired property and the sum of the moving and restoration expenses, the cost of correcting decent, safe, and sanitary deficiencies, if any, and the actual purchase price of a comparable relocation site. A public entity may limit the payment made under this subsection to the amount of the replacement housing payment for which the homeowner would otherwise be eligible.

(2) The payment shall not exceed $22,500.

(f) Provisional Payment Pending Condemnation.

If the exact amount of a replacement housing payment cannot be determined because of a pending condemnation suit, the public entity concerned may make a provisional replacement housing payment to the displaced homeowner equal to the difference between the public entity's maximum offer for the property and the reasonable cost of a comparable replacement dwelling, but only if the homeowner enters into an agreement that upon final adjudication of the condemnation suit the replacement housing payment will be recomputed on the basis of the acquisition price determined by the court. If the acquisition price as determined by the court is greater than the maximum offer upon which the provisional replacement housing payment is based, the difference will be refunded by the homeowner to the public entity. If the acquisition price as determined by the court is less than the maximum offer upon which the provisional replacement housing payment is based, the difference will be paid to the homeowner.

(g) Lease of Condominium. For the purposes of this section, the leasing of a condominium for a 99–year period, or for a term which exceeds the life expectancy of the displaced person as determined by the most recent life tables in Vital Statistics of the United States, as published by the Public Health Service of the Department of Health, Education and Welfare, shall be deemed a purchase of the condominium.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Section 7263, Government Code.

HISTORY

1. Amendment of subsections (a)(1) and (a)(4) and new NOTE filed 8–12–97; operative 9–11–97 (Register 97, No. 33).

2. Amendment of subsection (e)(2) filed 10–7–99; operative 11–6–99 (Register 99, No. 41).

§ 6104. Replacement Housing Payments for Tenants and Certain Others.

(a) General. A public entity shall make to a displaced person who satisfies the eligibility requirements of section 6084 and the conditions of subsection (b) below, a payment not to exceed $5,250 for either:

(1) An amount, computed in accordance with paragraph (d)(1) of this section, necessary to enable such person to lease or rent a replacement dwelling for a period not to exceed 42 months[2]; or

(2) An amount, computed in accordance with paragraph (d)(2) of this section, necessary to enable such person to make a downpayment on the purchase of a replacement dwelling (including incidental expenses described in section 6102).

(b) Eligibility Conditions.

A displaced person is eligible for the payments specified in subsection (a) if he satisfies the following conditions:

(1) Has occupied the dwelling from which he is displaced for a period of not less than 90 days prior to the initiation of negotiation for acquisition of such dwelling.

(2) Is not eligible to receive a replacement housing payment for homeowners under section 6102 or elects not to receive such payment. Where the displaced person is the owner–occupant of the dwelling, the payment made under paragraph 6104(a)(2) shall not exceed the amount of payment to which the person would be eligible under section 6102.

(3) Whenever a payment under subsection (a)(2) is sought the displaced person shall within one year from the date of displacement purchase and occupy a replacement dwelling.

(c) The provisions in subsection 6102(b) for modifying the conditions of eligibility also apply to this section.

(d) Computation of Payment.

(1) Rentals. Except for projects commenced prior to January 1, 1998 (see footnotes 1 and 2) the amount of payment necessary to lease or rent a comparable replacement dwelling, under subsection (a)(1), shall be computed by subtracting 42 times the base monthly rental of the displaced person (as determined in accordance with this subsection), from 42 times the monthly rental for a comparable replacement dwelling (as determined in accordance with this subsection): Provided, that in no case may such amount exceed the difference between 42 times the base monthly rental as determined in accordance with this subsection and 42 times the monthly rental actually required for the replacement dwelling occupied by the displaced person.

(A) Base Monthly Rental. The base monthly rental shall be the lesser of the average monthly rental paid by the displaced person for the 3–month period prior to initiation of negotiations or 30 percent of the displaced person's average monthly income. (See subsection 6008(1).) Where the displaced person was the owner of the dwelling from which he was displaced or was not required to pay rent for that dwelling, the economic rent (see subsection 6008(h)) shall be used in lieu of the average monthly rental to calculate base monthly rental.

(B) Comparable Rental. The monthly rental for a comparable replacement dwelling shall be the amount of rent determined by the public entity by one of the methods described in paragraph 6102(c)(1), considering rental charges instead of listing price or acquisition cost.

(C) Whichever method is selected the cost shall be updated to within three months of the date of rental of the replacement dwelling.

(2) Downpayment. The downpayment for which a payment specified under paragraph (a)(2) of this section may be made, shall not exceed the amount of a reasonable downpayment for the purchase of a comparable replacement dwelling where such purchase is financed, plus expenses incident to the purchase of a replacement dwelling computed in accordance with Section 6102. The full amount of a downpayment under this section shall be applied to the purchase of the replacement dwelling and shall be shown on the closing statement or other document acceptable to the public entity.

(e) Rental Payments for Displaced Owners and Dependents.

(1) Owners. A displaced owner who elects to rent rather than purchase a replacement dwelling and who meets the eligibility conditions specified in subsection (b) is eligible for the payment specified in paragraph (a)(1).

(2) Dependents. A dependent who is residing separate and apart from the person or family providing support, whether such separate residence is permanent or temporary, shall be entitled to payment under this section, but such payment shall be limited to the period during which the displaced dependent resides in the replacement dwelling. At the time the displaced dependent vacates that dwelling, no further payment under this section shall be made to such person. For the purposes of this paragraph a 'dependent' shall be a person who derives fifty–one percent or more of his income in the form of gifts from any private person or any academic scholarship or stipend. Full–time students shall be presumed to be dependents but may rebut this presumption by demonstrating that fifty percent or more of their income is derived from sources other than gifts from another private person or academic scholarships or stipends.

Dependents residing with the family of which they are a part shall not be entitled to any payment except as a part of the family.

(f) Disbursement. Except where specifically provided otherwise, the public entity shall have the authority to disburse payments under this section in a lump sum, monthly or at other intervals acceptable to the displaced person.

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[2]For those who, pursuant to the criteria set forth in Government Code section 7260(i)(3)(A) through (J), would have qualified as a "displaced person" prior to January 1, 1998, benefits shall be provided for 48 months provided they do not exceed $5,250.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Sections 7260(i) and 7264, Government Code.

HISTORY

1. Amendment of subsections (a), (a)(2), (d)(1), (d)(1)(A) and (d)(2) and new NOTE filed 8–12–97; operative 9–11–97 (Register 97, No. 33).
2. Amendment of subsection (a)(1) and (d)(1)–(d)(1)(A) filed 10–7–99; operative 11–6–99 (Register 99, No. 41).

§ 6106. Proration of Payments.

For the purpose of calculating an alternate payment under section 6098 or a replacement housing payment under section 6102 or 6104, two or more individuals (whether they are members of one family or not) living together in and displaced from a single dwelling shall be regarded as one person.

Where a tenant is sharing a single–family dwelling with an owner–occupant and paying the owner–occupant rent for the privilege, the tenant shall not be entitled to more than one–half of the rental supplement otherwise payable. The owner–occupant shall not be required to share the payment to which he is entitled or accept a prorated amount.

HISTORY

1. Amendment filed 11–5–76 as an emergency; designated effective 11–27–76 (Register 76, No. 44).
2. Certificate of Compliance filed 2–16–77 (Register 77, No. 8).

§ 6108. Condition of Replacement Dwelling.

(a) When a displaced person qualifies for a replacement housing payment (under section 6102 or 6104) by purchasing or renting a replacement dwelling, the unit, as a general rule, must be decent, safe and sanitary. There are three exceptions. One is described in paragraph 6040(a)(6). The others are:

(1) If the purchase of such a dwelling is the result of the public entity's failure to identify a reasonable number of comparable replacement dwellings as required or if the dwelling is one to which the person was referred by the public entity, the condition of the dwelling does not affect eligibility for a replacement housing payment.

(2) If the purchase of such a dwelling is not the result of a public entity's referral or failure to refer, the otherwise eligible person qualifies for a replacement housing payment if the unit is brought into compliance with the decent, safe and sanitary standard. In this situation payment shall be limited to the amount that would be provided in connection with the purchase of a similar, comparable replacement dwelling or the sum of the actual costs of acquisition (including related expenses) and rehabilitation, whichever is less.

(b) A public entity shall not induce or encourage a displaced person to acquire a dwelling which does not satisfy the comparable replacement housing standard. (See section 6008(c).)

§ 6110. Certificate of Eligibility.

Upon request by a displaced homeowner or tenant who has not yet purchased and occupied a replacement dwelling, but who is otherwise eligible for a replacement housing payment, the public entity concerned shall certify to any interested party, financial institution, or lending agency, that the displaced homeowner or tenant will be eligible for the payment of a specific sum if he purchases and occupies a dwelling within the time limits prescribed.

§ 6112. Manufactured Homes and Mobilehomes.

(a) General. A manufactured home or mobilehome is a dwelling. (See subsection 6008(g).) A person displaced from a manufactured home or

mobilehome must satisfy the same eligibility requirements and must be provided the same assistance, assurance and payments as a person displaced from a conventional dwelling.

(b) Moving Expenses. If a manufactured home or mobilehome is moved to another site, the displaced person shall be compensated for moving expenses in accordance with sections 6090 and 6092. The provisions of these sections which generally apply only to businesses and farms shall also apply to displaced persons who move a manufactured home or mobilehome.

(c) Replacement Housing Payments.

(1) A person who owns a manufactured home or mobilehome and site and as a replacement purchases both a dwelling and site shall be provided a replacement housing payment in accordance with section 6102. A person who owns a manufactured home or mobilehome and site, and as a replacement rents both a dwelling and site, shall be provided a payment in accordance with section 6104.

(2) A person who rents a manufactured home or mobilehome and site, and as a replacement rents or purchases a dwelling and site, shall be provided a payment in accordance with section 6104.

(3) A person who owns a manufactured home or mobilehome and site, and as a replacement purchases a dwelling and rents a site, shall be provided a payment in accordance with sections 6102 and 6104. The payment shall be limited to the lesser of:

(A) The amount necessary to purchase a conventional comparable replacement manufactured home and mobilehome; or

(B) The amount necessary to purchase a replacement manufactured home or mobilehome (in accordance with section 6102) plus the amount necessary to rent a replacement site (in accordance with section 6104). In calculating this amount, the economic rent for the site shall be used in lieu of average monthly rental to determine the base monthly rental (as provided in paragraph 6104(d)(1)).

(4) A person who owns a site from which he moves a manufactured home or mobilehome shall be provided a replacement housing payment under section 6102 if he purchases a replacement site and under section 6104 if he rents a replacement site.

(5) A person who owns a manufactured home or mobilehome which is acquired and rents the site shall be provided payment as follows:

(A) If a manufactured home or mobilehome, as appropriate, is not available the amount required to purchase a conventional replacement dwelling (in accordance with section 6102);

(B) The amount necessary to purchase a replacement manufactured home or mobilehome (in accordance with section 6102) plus the amount necessary to lease, rent or make a downpayment on a replacement site (in accordance with section 6104); or

(C) If he elects to rent a replacement manufactured home or mobilehome and site, the amount required to do so in accordance with section 6104. In calculating this payment, the average monthly rental shall equal the economic rent for the manufactured home or mobilehome plus the actual rent for the site.

(6) Similar principles shall be applied to other possible combinations of ownership and tenancy upon which a claim for payment might be based.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Sections 18007 and 18008, Health and Safety Code.

HISTORY

1. Amendment of section and new NOTE filed 8–12–97; operative 9–11–97 (Register 97, No. 33).

§ 6114. Affected Property.

(a) In addition to the payments required by Section 7262 of the Act (see sections 6090, 6092, 6094, 6096, 6098 and 6100), as a cost of acquisition, the public entity shall make a payment to any affected property owner meeting the requirements of this section.

(b) Such affected property is immediately contiguous to property acquired for airport purposes and the owner shall have owned the property affected by acquisition by the public entity not less than 180 days prior to the initiation of negotiation for acquisition of the acquired property.

(c) Such payment, not to exceed fifteen thousand dollars ($22,500), shall be the amount, if any, which equals the actual decline in the fair market value of the property of the affected property owner caused by the acquisition by the public entity for airport purposes of other real property and a change in the use of such property.

(d) The amount, if any, of actual decline in fair market value of affected property shall be determined according to rules and regulations adopted by the public entity. Such rules and regulations shall limit payment under this section only to such circumstances in which the decline in fair market value of affected property is reasonably related to objective physical change in the use of acquired property.

(e) "Affected property" means any real property which actually declines in fair market value because of acquisition by a public entity for public use of other real property and a change in the use of the real property acquired by the public entity.

HISTORY

1. Amendment of subsection (c) filed 10–7–99; operative 11–6–99 (Register 99, No. 41).

Article 4. Last Resort Housing

§ 6120. Purpose.

The purpose of this part is to set forth the criteria and procedures for assuring that if the action of a public entity results, or will result in displacement, and comparable replacement housing will not be available as needed, the public entity shall use its funds or funds authorized for the project to provide such housing.

§ 6122. Determination of Need for Last Resort Housing.

If on the basis of data derived from surveys and analyses which satisfy the requirements of sections 6048 and 6052, the public entity is unable to demonstrate that comparable replacement housing will be available as required, the head of the public entity shall determine whether to use the public entity's funds or the funds authorized for the project to provide such necessary replacement housing or to modify, suspend or terminate the project or undertaking.

§ 6124. Development of Replacement Housing Plan.

(a) General.

(1) Following the determination pursuant to section 6122, the head of the displacing public entity shall develop or cause to be developed a replacement housing plan to produce a sufficient number of comparable replacement dwellings. The plan shall specify how, when and where the housing will be provided, how it will be financed and the amount of funds to be diverted to such housing, the prices at which it will be rented or sold to the families and individuals to be displaced, the arrangements for housing management and social services as appropriate, the suitability of the location and environmental impact of the proposed housing, the arrangements for maintaining rent levels appropriate for the persons to be rehoused, and the disposition of proceeds from rental, sale, or resale of such housing. If a referendum requirement or zoning presents an obstacle, the issue shall be addressed.

(2) All contracts and subcontracts for the construction, rehabilitation or management of last resort housing shall be let without discrimination as to race, sex, marital status, color, religion, national origin, ancestry or other arbitrary circumstance and pursuant to an affirmative action program. The public entity shall encourage participation by minority persons in all levels of construction, rehabilitation, planning, financing and management of last resort housing. When the housing will be located in an area of minority concentration, the public entity shall seek to secure significant participation of minorities in these activities. The public entity shall require that, to the greatest extent feasible, opportunities for training and employment arising in connection with the planning, construction, rehabilitation, and operation of last resort housing be given to persons of low income residing in the area of such housing and shall determine and implement means to secure the participation of small businesses in the performance of contracts for such work.

(b) Citizen Participation.

(1) If the need for last resort housing exceeds 25 units, the head of the displacing public entity shall establish a committee which will consult with and provide advice and assistance to the displacing public entity in the development of the plan. The committee should include appointed representatives of the displacing entity and state and local agencies knowledgeable regarding housing in the area, including but not limited to the local housing authority and the central relocation agency, if any. In addition, the committee should include representatives of other appropriate public groups (for example, local and areawide planning agencies) and private groups knowledgeable regarding housing and the problems of housing discrimination.

(2) The committee shall include representatives of the residents to be displaced. These representatives may be appointed by the displacing entity or elected by the residents, as the residents wish. Resident representatives shall, at a minimum, constitute one-third of the committee membership. Votes shall be allocated so that the total votes of resident representatives shall equal one-half of the total votes of the committee membership.

(3) The plan must be approved by the vote of a simple majority of the committee membership. In the event the committee fails to approve the plan, the local governing body or, where the displacing entity is a state agency, the head of the state agency may substitute its approval.

(c) Consultation with Other Housing Agencies and Organizations.

The head of the displacing public entity may consult or contract with the department, a local housing authority, or other agency or organization having experience in the administration or conduct of housing programs to provide technical assistance and advice in the development of the replacement housing plan.

§ 6126. Submission of Plan for Comment.

The head of the displacing public entity shall submit the plan and all significant amendments to the local housing and planning agencies for comment and to assure that the plan accurately reflects housing conditions and needs in the relocation area. Reviewing agencies shall have 30 calendar days following receipt of the plan to prepare their comments. Copies of all comments received shall be forwarded to the committee and available to all interested persons.

General notice of the plan shall be provided. Notice shall be designed to reach the residents of the relocation area; it shall be in accordance with the provisions of paragraph 6046(a)(3) and subsection 6046(b); and it shall be provided 30 days prior to submission to the committee, or the local governing body or head of state agency for approval.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Sections 7260.5(a)(5) and 7264.5, Government Code.

HISTORY

1. Amendment of first paragraph and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6128. Determination by Displacing Public Entity of Feasibility and Compliance.

Upon receipt and consideration of the comments, the displacing public entity shall determine whether or not:

(a) The plan is feasible.

(b) The plan complies with applicable environmental standards and procedures.

(c) The plan is compatible with the local general plan and housing element and the areawide housing plan or strategy.

If any of the above determinations by the displacing public entity is negative the displacing public entity shall revise the plan as necessary. Substantial modifications in the plan shall be submitted for review and comment as provided in section 6126. If necessary for timely implementation of the plan or execution of the project, the head of the displacing public entity may shorten the time allowed in section 6126 for review of modifications.

§ 6130. Implementation of the Replacement Housing Plan.

Upon making the determinations required by section 6128, the head of the displacing entity may expend funds and take such other actions as necessary to provide, rehabilitate, or construct replacement housing pursuant to the approved replacement housing plan through methods including but not limited to the following:

(a) Transfer of funds to state and local housing agencies.

(b) Contract with organizations experienced in the development of housing.

(c) Direct construction by displacing public entity.

Whenever practicable, the head of the displacing public entity should utilize the services of federal, state, or local housing agencies, or other agencies having experience in the administration or conduct of similar housing programs.

§ 6132. Housing Production.

The head of the displacing public entity shall monitor the production of the last resort housing to ensure that it is in accordance with the plan.

§ 6134. Jointly Sponsored Development.

Where several agencies are administering programs resulting in residential displacement, opportunities shall be sought for joint development and financing to aggregate resources in order most efficiently to provide replacement housing in sufficient quantity to satisfy the aggregate needs of such programs.

§ 6136. Last Resort Housing in Lieu of Payments.

A public entity shall not require a displaced person to accept a dwelling provided pursuant to this Article in lieu of the displaced person's acquisition payment, if any, for the real property from which he is displaced or the relocation payments for which he may be eligible.

§ 6138. Conformity with the Act and Other Statutes, Policies and Procedures.

(a) Civil Rights and Other Acts. The administration of this Article shall be in accord with the provisions of all applicable federal and state non-discrimination laws and regulations issued pursuant thereto.

(b) Dwelling and Relocation Standards. Determinations made pursuant to section 6122 and any plan developed and implemented for providing replacement housing and all such housing provided thereunder shall be in conformity with the standards established in the Act and Guidelines.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Section 7260.5(c)(4), Government Code.

HISTORY

1. Amendment of subsection (a) and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6139. Last Resort Housing.

(a) Whenever comparable replacement dwellings are not available, or are not available within the monetary limits of Government Code sections 7263 and 7264, as appropriate, the displacing agency shall provide additional or alternative assistance under the provisions of this part.

(b) The methods of providing replacement housing of last resort include, but are not limited to:

(1) A replacement housing payment calculated in accordance with the provisions of sections 6102 or 6104, as appropriate, even if the calculation is in excess of the monetary limits of Government Code sections 7263 and 7264. A rental assistance payment under this part shall be paid to the displaced person in a lump sum, or at the discretion of the displacing agency, $5,250 shall be paid to the displaced person in a lump sum upon displacement and the remainder of the payments shall be paid to the displacee in periodic payments over a period not to exceed 42 months unless otherwise specified by statute.

(2) Major rehabilitation of and/or additions to an existing replacement dwelling in a sum equal to or greater than the payment to which the displaced person is entitled under subsection (b)(1).

(3) The construction of a new replacement dwelling in a sum equal to or greater than the payment to which the displaced person is entitled under subsection (b)(1) of this section.

(4) The relocation and, if necessary, rehabilitation of a dwelling.

(5) The purchase of land and/or a replacement dwelling by the displacing agency and subsequent sale or lease to, or exchange with a displaced person.

(6) For purposes of accommodating the needs of handicapped persons, the removal of barriers to the handicapped.

(c) Only at the discretion of displacing agencies are post-acquisition tenants entitled to last resort housing payments.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Sections 7263, 7264 and 7264.5, Government Code.

HISTORY

1. New section filed 8-12-97; operative 9-11-97 (Register 97, No. 33).
2. Amendment of subsection (b)(1) filed 10-7-99; operative 11-6-99 (Register 99, No. 41).

Article 5. Grievance Procedures

§ 6150. Purpose.

The purpose of this article is to set forth guidelines for processing appeals from public entity determinations as to eligibility, the amount of payment, and for processing appeals from persons aggrieved by a public entity's failure to refer them to comparable permanent or adequate temporary replacement housing. Public entities shall establish procedures to implement the provisions of this Article.

§ 6152. Right of Review.

(a) Any complainant, that is any person who believes himself aggrieved by a determination as to eligibility, the amount of payment, the failure of the public entity to provide comparable permanent or adequate temporary replacement housing or the public entity's property management practices may, at his election, have his claim reviewed and reconsidered by the head of the public entity or an authorized designee (other than the person who made the determination in question) in accordance with the procedures set forth in this article, as supplemented by the procedures the public entity shall establish for such review and reconsideration.

(b) A person or organization directly affected by the relocation plan may petition the department to review the final relocation plan of a public entity to determine if the plan is in compliance with state laws and guidelines or review the implementation of a relocation plan to determine if the public entity is acting in compliance with its relocation plan. Review undertaken by the department under this section shall be in accordance with the provisions of sections 6158 and may be informal. Before conducting an investigation, the department should attempt to constrain disputes between parties.

Failure to petition the department shall not limit a complainant's right to seek judicial review.

(c) If a relocation appeals board has been established pursuant to Section 33417.5 of the Health and Safety Code, a city by ordinance may designate the board to hear appeals from local public entities which do not have an appeal process. In the absence of such an ordinance, public entities shall establish procedures to implement the provisions of this Article.

NOTE: Authority cited: Section 50460, Health and Safety Code. Reference: Section 7266, Government Code.

HISTORY

1. Amendment of subsection (b) and new NOTE filed 8-12-97; operative 9-11-97 (Register 97, No. 33).

§ 6154. Notification to Complainant.

If the public entity denies or refuses to consider a claim, the public entity's notification to the complainant of its determination shall inform the complainant of its reasons and the applicable procedures for obtaining review of the decision. If necessary, such notification shall be printed in a language other than English in accordance with section 6046.

§ 6156. Stages of Review by a Public Entity.

(a) Request for Further Written Information. A complainant may request the public entity to provide him with a full written explanation of its determination and the basis therefore, if he feels that the explanation accompanying the payment of the claim or notice of the entity's determination was incorrect or inadequate. The public entity shall provide such an explanation to the complainant within three weeks of its receipt of his request.

(b) Informal Oral Presentation. A complainant may request an informal oral presentation before seeking formal review and reconsideration. A request for an informal oral presentation shall be filed within the period described in subsection (d) of this section, and within 15 days of the request the public entity shall afford the complainant the opportunity to make such presentation. The complainant may be represented by an attorney or other person of his choosing. This oral presentation shall enable the complainant to discuss the claim with the head of the public entity or a designee (other than the person who made the initial determination) having authority to revise the initial determination on the claim. The public entity shall make a summary of the matters discussed in the oral presentation to be included as part of its file. The right to formal review and reconsideration shall not be conditioned upon requesting an oral presentation.

(c) Written Request for Review and Reconsideration. At any time within the period described in subsection (d) a complainant may file a written request for formal review and reconsideration. The complainant may include in the request for review any statement of fact within the complainant's knowledge or belief or other material which may have a bearing on the appeal. If the complainant requests more time to gather and prepare additional material for consideration or review and demonstrates a reasonable basis therefor, the complainant's request should be granted.

(d) Time Limit for Requesting Review. A complainant desiring either an informal oral presentation or seeking a formal review and reconsideration shall make a request to the public entity within eighteen months following the date he moves from the property or the date he receives final compensation for the property, whichever is later.

§ 6158. Formal Review and Reconsideration by the Public Entity.

(a) General. The public entity shall consider the request for review and shall decide whether a modification of its initial determination is necessary. This review shall be conducted by the head of the public entity or an authorized, impartial designee. (The designee may be a committee). A designee shall have the authority to revise the initial determination or the determination of a previous oral presentation. The public entity shall consider every aggrieved person's complaint regardless of form, and shall, if necessary provide assistance to the claimant in preparing the written claim. When a claimant seeks review, the public entity shall inform him that he has the right to be represented by an attorney, to present his case by oral or documentary evidence, to submit rebuttal evidence, to conduct such cross-examination as may be required for a full and true disclosure of facts, and to seek judicial review once he has exhausted administrative appeal.

(b) Scope of Review. The public entity shall review and reconsider its initial determination of the claimant's case in light of:

(1) All material upon which the public agency based its original determination including all applicable rules and regulations, except that no evidence shall be relied upon where a claimant has been improperly denied an opportunity to controvert the evidence or cross-examine the witness.

(2) The reasons given by the claimant for requesting review and reconsideration of the claim.

(3) Any additional written or relevant documentary material submitted by the claimant.

(4) Any further information which the public entity in its discretion, obtains by request, investigation, or research, to ensure fair and full review of the claim.

(c) Determination on Review by Public Entity.

(1) The determination on review by the public entity shall include, but is not limited to:

(A) The public entity's decision on reconsideration of the claim.

(B) The factual and legal basis upon which the decision rests, including any pertinent explanation or rationale.

(C) A statement to the claimant of the right to further administrative appeal, if the public entity has such an appeal structure, or if not, a statement to the claimant that administrative remedies have been exhausted and judicial review may be sought.

(2) The determination shall be in writing with a copy provided to the claimant.

(d) Time Limits.

(1) The public entity shall issue its determination of review as soon as possible but no later than 6 weeks from receipt of the last material submitted for consideration by the claimant of the date of the hearing, whichever is later.

(2) In the case of complaints dismissed for untimeliness or for any other reason not based on the merits of the claim, the public entity shall furnish a written statement to the claimant stating the reason for the dismissal of the claim as soon as possible but no later than 2 weeks from receipt of the last material submitted by the claimant or the date of the hearing, whichever is later.

§ 6160. Refusals to Waive Time Limitation.

Whenever a public entity rejects a request by a claimant for a waiver of the time limits provided in section 6088, a claimant may file a written request for review of this decision in accordance with the procedures set forth in sections 6156 and 6158, except that such written request for review shall be filed within 90 days of the claimant's receipt of the public entity's determination.

§ 6162. Extension of Time Limits.

The time limits specified in Section 6156 may be extended for good cause by the public entity.

§ 6164. Recommendations by Third Party.

Upon agreement between the claimant and the public entity, a mutually acceptable third party or parties may review the claim and make advisory recommendations thereon to the head of the public entity for its final determination. In reviewing the claim and making recommendations to the public entity, the third party or parties shall be guided by the provisions of this Article.

Except to the extent the confidentiality of material is protected by law or its disclosure is prohibited by law, a public entity shall permit the claimant to inspect all files and records bearing upon his claim or the prosecution of the claimant's grievance. If a claimant is improperly denied access to any relevant material bearing on the claim, such material may not be relied upon in reviewing the initial determination.

§ 6166. Review of Files by Claimant.

Except to the extent the confidentiality of material is protected by law or its disclosure is prohibited by law, a public entity shall permit the claimant to inspect all files and records bearing upon his claim or the prosecution of the claimant's grievance. If a claimant is improperly denied access to any relevant material bearing on the claim, such material may not be relied upon in reviewing the initial determination.

§ 6168. Effect of Determination on Other Persons.

The principles established in all determinations by a public entity shall be considered as precedent for all eligible persons in similar situations regardless of whether or not a person has filed a written request for review. All written determinations shall be kept on file and available for public review.

§ 6170. Right to Counsel.

Any aggrieved party has a right to representation by legal or other counsel at his expense at any and all stages of the proceedings set forth in these sections.

§ 6172. Stay of Displacement Pending Review.

If a complainant seeks to prevent displacement, the public entity shall not require the complainant to move until at least 20 days after it has made a determination and the complainant has had an opportunity to seek judicial review. In all cases the public entity shall notify the complainant in writing 20 days prior to the proposed new date of displacement.

§ 6174. Joint Complainants.

Where more than one person is aggrieved by the failure of the public entity to refer them to comparable permanent or adequate temporary replacement housing the complainants may join in filing a single written request for review. A determination shall be made by the public entity for each of the complainants.

§ 6176. Judicial Review.

Nothing in this Article shall in any way preclude or limit a claimant from seeking judicial review of a claim upon exhaustion of such administrative remedies as are available under this Article.

Article 6. Acquisition Policies

§ 6180. Purpose.

The purpose of this Article is to set forth the practices to be followed with respect to acquisition of real property by a public entity. Public entities shall, to the greatest extent practicable, be guided by these practices.

§ 6182. Acquisition.

(a) A public entity shall make every reasonable effort to acquire property by negotiation and to do so expeditiously.

(b) Before negotiations are initiated (see subsection 6008(n)) a public entity shall:

[The next page is 277.]

(1) Have the property appraised, giving the owner or his representative designated in writing an opportunity, by reasonable advance written notice, to accompany the appraiser during the inspection of the property;

(2) If the owner of real property is also the owner of a business conducted on the real property to be acquired or on the remainder, inform him of his possible right to compensation for loss of goodwill. The public entity should include a copy of the pertinent provisions of the Eminent Domain Law (Code of Civil Procedure Sections 1230.010 *et seq.*).

(3) Establish an amount it believes to be just compensation for the property, which amount shall, in no event, be less than the public entity's approved appraisal of the fair market value of the property as improved.

(c) The determination of just compensation shall be based upon consideration of:

(1) The real property being acquired;

(2) Where the real property acquired is part of a larger parcel, the injury, if any, to the remainder; and

(3) Loss of goodwill, where the owner of the real property is also the owner of a business conducted upon the property to be acquired or on the remainder and where the provisions of the Eminent Domain Law pertaining to compensation for loss of goodwill are satisfied. Goodwill consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

(d) As soon as possible after the amount of just compensation is established, the public entity shall offer to acquire the property for the full amount so established and shall provide the owner with a written statement of the basis for determination of just compensation. The statement shall include the following:

(1) A general statement of the public use for which the property is to be acquired.

(2) A description of the location and extent of the property to be taken, with sufficient detail for reasonable identification, and the interest to be acquired.

(3) An inventory identifying the buildings, structures, fixtures, and other improvements.

(4) A recital of the amount of the offer and a statement that such amount:

(A) Is the full amount believed by the public entity to be just compensation for the property taken;

(B) Is not less than the approved appraisal of the fair market value of the property as improved;

(C) Disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and

(D) Does not reflect any consideration of or allowance for any relocation assistance and payments or other benefits which the owner is entitled to receive under an agreement with the public entity, except for an amount to compensate the owner for that portion of loss of goodwill provided in accordance with Section 6100.

(5) If the real property is a portion of a larger parcel, the statement shall include an apportionment of the total estimated just compensation for the partial acquisition between the value of the property being taken and the amount of damage, if any, to the remainder of the larger parcel from which such property is taken.

(6) If the owner of the real property to be acquired is also the owner of a business conducted upon the property or the remainder, the statement shall include an indication of the amount of compensation for loss of goodwill.

(e) At the initiation of negotiations (see subsection 6008(n)) a public entity shall provide written notification to the owner of a business conducted on the real property to be acquired or on the remainder, who is not also the owner of the real property, concerning his possible right to compensation for loss of goodwill. The public entity should include a copy of the pertinent provisions of the Eminent Domain Law (Code of Civil Procedure, Section 1230.010 et seq.).

(f) (1) If after receiving the public entity's offer the owner requests additional information regarding the determination of just compensation, the public entity shall provide the following information to the extent that the determination of just compensation is based thereon:

(A) The date of valuation used.

(B) The highest and best use of the property.

(C) The applicable zoning.

(D) Identification of some of the sales, contracts to sell and purchase, and leases supporting the determination of value.

(E) If the property is a portion of a larger parcel, a description of the larger parcel, with sufficient detail for reasonable identification.

(2) With respect to each sale, contract, or lease provided in accordance with (1)(D) above, the following data should be provided:

(A) The names and business or residence addresses, if known, of the parties to the transaction.

(B) The location of the property subject to the transaction.

(C) The date of transaction.

(D) The price and other significant terms and circumstances of the transaction, if known. In lieu of stating the other terms and circumstances, the public entity may, if the document is available for inspection, state the place where and the times when it is available for inspection.

(3) The requirements of this subsection do not apply to requests made after an eminent domain proceeding is commenced.

(g) Whenever a part of a parcel of property is to be acquired by a public entity for public use and the remainder, or a portion of the remainder, will be left in such size, shape or condition as to constitute an uneconomic remnant the public entity shall offer to acquire the remnant if the owner so desires. For the purposes of these Guidelines an "uneconomic remnant" shall be a parcel of real property in which the owner retains an interest after partial acquisition of his property and which has little or no utility or value to such owner. (Nothing in this subsection is intended to limit a public entity's authority to acquire real property.)

(h) Nothing in this section shall be construed to deprive a tenant of the right to obtain payment for his property interest as otherwise provided by law.

(i) (1) Prior to commencement of an eminent domain proceeding the public entity shall make reasonable efforts to discuss with the owner its offer to purchase the owner's real property. The owner shall be given a reasonable opportunity to present material which he believes to be relevant as to the question of value and to suggest modification in the proposed terms and conditions of the purchase, and the public entity shall carefully consider the owner's presentation.

(2) Prior to commencement of an eminent domain proceeding, if the evidence presented by an owner or a material change in the character or condition of the property indicates the need for a new appraisal or if a significant delay has occurred since the determination of just compensation, the public entity shall have its appraisal updated. If a modification in the public entity's determination of just compensation is warranted, an appropriate price adjustment shall be made and the new amount determined to be just compensation shall be promptly offered in writing to the owner.

(j) (1) In no event shall the public entity either advance the time of condemnation, or defer negotiations or condemnation on the deposit of funds in court for the use of the owner, or take any other action coercive or misleading in nature, in order to compel or induce an agreement on the price to be paid for the property.

(2) If any interest in property is to be acquired by exercise of the power of eminent domain, the public entity shall promptly institute formal condemnation proceedings. No public entity shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of this real property.

§ 6184. Notice of Decision to Appraise.

The public entity shall provide the owner with written notice of its decision to appraise the real property as soon as possible after the decision to appraise has been reached. The notice shall state, as a minimum, that:

(a) A specific area is being considered for a particular public use;

(b) The owner's property has been determined to be located within the area; and

(c) The owner's property, which shall be generally described, may be acquired in connection with the public use.

§ 6186. Time of Offer.

The public entity shall make its first written offer as soon as practicable following service of the Notice of Decision to Appraise. (See section 6184.)

§ 6188. Notice of Land Acquisition Procedures.

(a) At the time the public entity notifies an owner of its decision to appraise real property it shall furnish the owner a written explanation of its land acquisition procedures, describing in non-technical, understandable terms the public entity's acquisition procedures and the principal rights and options available to the owner.

(b) The notice shall include the following:

(1) A description of the basic objective of the public entity's land acquisition program and a reference to the availability of the public entity's statement covering relocation benefits for which an owner-occupant may be eligible;

(2) A statement that the owner or his representative designated in writing shall be given the opportunity to accompany each appraiser during his inspection of the property.

(3) A statement that if the acquisition of any part of real property would leave the owner with an uneconomic remnant as defined in subsection 6182(g) the public entity will offer to acquire the uneconomic remnant; if the owner so desires;

(4) A statement that if the owner is not satisfied with the public entity's offer of just compensation he will be given a reasonable opportunity to present relevant material, which the public entity will carefully consider, and that if a voluntary agreement cannot be reached the public entity, as soon as possible, will either institute a formal condemnation proceeding against the property or abandon its intention to acquire the property, giving notice of the latter as provided in section 6190.

(5) A statement that construction or development of a project shall be so scheduled that no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by these Guidelines will be available) or to move his business or farm operation without at least 90 days written notice from the public entity of the date by which the move is required; and

(6) A statement that, if arrangements are made to rent the property to an owner or his tenant for a short term or for a period subject to termination by the public entity on short notice, the rental will not exceed the lesser of the fair rental value of the property to short term occupier or the pro rata portion of the fair rental value for a typical rental period.

If the owner or tenant is an occupant of a dwelling, the rental for the dwelling shall be within his financial means. (See subsection 6008(c).)

§ 6190. Notice of Public Entity's Decision Not to Acquire.

Whenever a public entity which has forwarded a Notice of Decision to Appraise or has made a firm offer subsequently decides not to acquire the property, the public entity shall serve a notice in writing on the owner, all persons occupying the property and all other persons potentially eligible for relocation payments and assistance. This notice shall state that the public entity has decided not to acquire the property. It shall be served not later than 10 days following the date of the public entity decision not to acquire.

§ 6192. Incidental Expenses.

If the real property is acquired by purchase, the public entity shall pay all reasonable expenses incident to transfer. Among the expenses requiring payment are: recording fees, transfer fees and similar expenses incident to the conveyance of real property, and the pro rata portion of charges for public service such as water, sewage and trash collection which are allowable to a period subsequent to the date of transfer of title to the public entity or the effective date of possession of such property by the public entity, whichever is earlier. The public entity shall inform the owner that he may apply for a rebate of the pro rata portion of any real property taxes paid.

History

1. Amendment filed 11-5-76 as an emergency; designated effective 11-27-76 (Register 76, No. 44).
2. Certificate of Compliance filed 2-16-77 (Register 77, No. 8).

§ 6194. Short Term Rental.

(a) If the public permits an owner or tenant to occupy the real property acquired on a rental basis for a short-term or for a period subject to termination by the public entity on short notice, the amount of rent required shall not exceed the lesser of the fair rental value to a short-term occupier or the pro rata portion of the fair rental value for a typical rental period.

If the owner or tenant is an occupant of a dwelling, the rental for the dwelling shall be within his financial means. (See subsection 6008(c).)

(b) A post-acquisition tenant who occupies real property acquired on a rental basis for a short term and who is informed that the property has been acquired for a public use shall be given not less than 30 days notice of termination of the tenancy.

History

1. Amendment of subsection (b) filed 11-5-76 as an emergency; designated effective 11-27-76 (Register 76, No. 44).
2. Certificate of Compliance filed 2-16-77 (Register 77, No. 8).

§ 6195. Public Information.

The purchase price and other consideration paid by the public entity is public information and shall be made available upon request.

§ 6196. Service of Notice.

Service of all notices required by this article shall be made either by first class mail or by personal service upon the person to be notified.

§ 6198. Nonpossessory Interest Exception.

The provisions of 6182(b), (c), (d)(4), and (f) and 6188 shall not apply to the acquisition of any easement, right-of-way, covenant or other nonpossessory interest in real property to be acquired for the construction, reconstruction, alteration, enlargement, maintenance, renewal, repair or replacement of sub-surface sewers, waterlines or appurtenance, drains, septic tanks, or storm water drains.

Attachment A
Minimum Contents of Informational Statement(s)

Item To Be Included	*For Distribution To* *Displaced Persons*	*For Distribution To* *Business Concerns and Others*
1. General description of the nature and types of activities that will be undertaken, including an identification of areas which may involve displacement. A diagrammatic sketch of the project area should be attached.	x	x
2. Statement that public action may result in displacement but that no one lawfully occupying property will be required to surrender possession without at least 90 days' written notice from the public entity and no one will be required to move until 90 days after the provision of information.	x	x
3. Assurance that families and individuals will not be required to move before reasonable offers of decent, safe, sanitary and otherwise comparable housing within their financial means have been made, except for the causes set forth in the local agency's eviction policy (which shall be in accordance with section 6058.)	x	

Item To Be Included	For Distribution To: Displaced Persons	For Distribution To: Business Concerns and Others
4. General description of types of relocation payments available, including general eligibility criteria and a caution against premature moves that might result in loss of eligibility for a payment.	x	x
5. Identification of the agency's relocation program and a description of the relocation services and aids that will be available.	x	x
6. Encouragement to visit the agency's relocation office and cooperate with the staff. The address, telephone number, and hours of the relocation office should be specified.	x	x
7. Information on replacement housing, including:		
a. Brief description of what constitutes comparable replacement housing, including physical standards.	x	
b. Laymen's description of Federal fair housing law (Title VIII of Civil Rights Act of 1968), and applicable State and local fair housing laws, as well as rights under Title IV of the Civil Rights Act of 1964.	x	
c. Statement that the public entity (or its agent) will identify comparable replacement dwellings within the financial means of and otherwise available to displaced persons and will provide assistance to persons in obtaining housing of their choice, including assistance in the referral of complaints of discrimination to the appropriate Federal, State or local fair housing enforcement agency.	x	
d. Statement that persons may seek their own housing accommodations and urging them, if they do so, to notify the relocation office prior to making a commitment to purchase or occupy the property.	x	
8. Statement that the public entity will provide maximum assistance in locating relocation accommodations,including consultation with the Small Business Administration and other governmental agencies which might be of assistance.	x	
9. Statement describing requirement for prior notification to the agency of the business concern's intention to move.	x	
10. Summary of the local agency's eviction policy, which shall be in accordance with the provisions of section 6058.	x	x
11. Statement describing the agency's grievance procedure, its purpose, and how it may be used, which procedure shall be in accordance with the provisions of Article 5.	x	x

Subchapter 2. California Low–Income Home Management Training Program

NOTE: Authority cited: Sections 41226 and 50626, Health and Safety Code. Reference: Sections 41220–41229 and 50625–50629, Health and Safety Code.

HISTORY

1. Renumbering from Chapter 1, Subchapter 4 (Sections 1500–1520, not consecutive) to Chapter 6, Subchapter 2 (Sections 6200–6220, not consecutive) filed 1–28–77 as procedural and organizational; effective upon filing (Register 77, No. 5). For prior history, see Register 76, No. 18.
2. Repealer of Subchapter 2 (Articles 1–2, Sections 6200–6220, not consecutive) filed 6–19–80; effective thirtieth day thereafter (Register 80, No. 25).

Subchapter 3. Housing Element Guidelines

NOTE: Authority cited: Section 50459, Health and Safety Code; and Section 65302(c), Government Code. Reference: Section 65302(c), Government Code.

HISTORY

1. Renumbering from Chapter 1, Subchapter 5 (Sections 1600–1650, not consecutive) to Chapter 6, Subchapter 3 (Sections 6300–6350, not consecutive) filed 1–28–77 as procedural and organizational; effective upon filing (Register 77, No. 5). For prior history, see Register 76, No. 50.
2. New Subchapter 3, Articles 1–3 (Sections 6300–6350, not consecutive) refiled 4–1–77 as an emergency; designated effective 4–5–77 (Register 77, No. 14).
3. New Subchapter 3, Articles 1–3 (Sections 6300–6350, not consecutive) refiled 8–2–77 as an emergency; designated effective 8–3–77 (Register 77, No. 32).
4. Certificate of Compliance filed 11–29–77 (Register 77, No. 49). 5. Repealer of Subchapter 3 (Sections 6300–6350, not consecutive) filed 6–9–82; effective thirtieth day thereafter (Register 82, No. 24).
5. Repealer of Subchapter 3 (Sections 6300–6350, not consecutive) filed 6–9–82; effective thirtieth day thereafter (Register 82, No. 24).

Subchapter 4. Housing Element Guidelines

NOTE: Authority cited: Section 50459, Health and Safety Code, and Section 65302(c), Government Code. Reference: Section 65302(c), Government Code.

HISTORY

1. New Subchapter 4 (Sections 6400–6478) filed 12–7–77; effective thirtieth day thereafter (Register 77, No. 50).
2. Amendment filed 5–1–79 as an emergency; effective upon filing (Register 79, No. 18).
3. Amendment filed 8–28–79 as an emergency; effective upon filing (Register 79, No. 35). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 12–26–79.
4. Certificate of Compliance filed 10–23–79 (Register 79, No. 43).
5. Repealer of Subchapter 4 (Sections 6400–6480, not consecutive) filed 6–9–82; effective thirtieth day thereafter (Register 82, No. 24). For prior history, see Register 80, No. 18.

Subchapter 5. Department of Housing and Community Development—Conflict of Interest Code

§ 6500. General Provisions.

The Political Reform Act, Government Code Sections 81000, *et seq.*, requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Adm. Code of Regs. Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Department and Commission of Housing and Community Development.

Designated employees shall file statements of economic interests with the agency who will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Upon receipt of the statements of the Director, the agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission.

NOTE: Authority cited: Section 87300, Government Code. Reference: Sections 81001, 87300 and 87311, Government Code.

HISTORY

1. New subchapter 5 (sections 6500–6510 and Appendices A, B and C) filed 2–17–78; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 10–4–77 (Register 78, No. 7).
2. Repealer of subchapter 5 (sections 6500–6510 and Appendices A–C) and new subchapter 5 (section 6500 and Appendix) filed 2–26–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 9).
3. Repealer of subchapter 5 (section 6500 and Appendix) and new subchapter 5 (section 6500 and Appendices A and B) filed 3–19–85; effective upon filing pursuant to Government Code section 11346.2(d). Approved by Fair Political Practices Commission 2–13–85 (Register 85, No. 12).
4. Amendment of Appendices A and B filed 11–17–89; operative 12–17–89. Approved by Fair Political Practices Commission 5–25–89 (Register 89, No. 47).
5. Amendment filed 2–18–92; operative 3–19–91. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 12–17–91 (Register 92, No. 12).
6. Change without regulatory effect amending second paragraph of section, and amending Appendix A and B filed 6–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 26). Approved by Fair Political Practices Commission 5–1–96.

7. Amendment of appendices A and B filed 9–30–2002; operative 10–30–2002. Approved by Fair Political Practices Commission 6–20–2002 (Register 2002, No. 40).

Appendix A

Designated Positions

Persons in the following classes or positions are designated employees and shall make the types of disclosures set forth in the disclosure category listed opposite the position.

CLASS OR POSITION	*DISCLOSURE CATEGORY*
Office of the Director	
Director; Chief Deputy Director; Deputy Directors; Assistant to the Director; Assistant Director for External Affairs; Assistant for Policy Development; Director Marketing and Communications; Project Manager/Major Information Technical Projects;	1
Staff Services Managers (all levels);	3
Legal Office	
Chief Counsel/Deputy Director; Staff Counsel (all levels);	1
Associate Government Program Analyst (all levels)	2
Division of Administration and Management	
Deputy Director	1
Staff Services Managers (all levels); Data Processing Manager (all levels); Staff Programmer Analyst; Staff Information Systems Analyst; Associate Programmer Analysts (Spec. & Supv.) Assoc. Information Systems Analysts (Spec. & Supv.) Accounting Administrators (all levels); Accounting Officers (all levels); Accounting Analysts (all levels); Business Service Officers (all levels); Business Service Assistant; Associate Governmental Program Analysts; Staff Services Analysts (except in the Personnel Office); Training Officer	3
Legislative Division	
Deputy Director;	1
Staff Services Managers (all levels); Associate Governmental Program Analyst, Staff Services Analyst	2 & 3
Audit Division	
Chief; Staff Management Auditor; Staff Services Management Auditor; Associate Management Auditors	5
Housing Policy Development Division	
Deputy Director; Assistant Deputy Director; Housing and Community Development Managers (all levels); Housing and Community Development Specialists (all levels); Housing and Community Development Representatives (all levels);	1
Codes and Standards Division	
Deputy Director; Assistant Deputy Director; Assistant Chief	1
Codes and Standards Administrators (all levels); District Representatives (all levels); Staff Services Manager I; Mobilehome Registration Manager; Mobilehome Registration Supervisor III; Mobilehome Registration Specialist;	4
Community Affairs Division	
Deputy Director; Assistant Deputy Director; Special Assistant to the Deputy Director	1
Housing and Community Development Representatives (all levels); Housing and Community Development Specialists (all levels); Housing and Community Development Managers (all levels); Associate Governmental Program Analysts; Management Services Technicians; Staff Services Analysts; Loan and Grant Committee Members	2
Consultants*	

*Consultants shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Director may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant duties and based upon that description, a statement of the extent of disclosure requirements. The Director's determination is a public record and shall be retained for public inspection in the same manner and locations as this conflict of interest code."

NOTE: Authority cited: Section 87300, Government Code. Reference: Sections 87300–87311, Government Code.

Appendix B

Disclosure Categories

Financial interests of employees holding positions designated in this section are to be reported in statements of economic interests as follows:
Designated Employees in Category 1 must report:

(a) All investments and any business positions in any business entity;

(b) All sources of income;

(c) All interests in real property (excluding one's primary personal residence).

Designated Employees in Category 2 must report:

(a) All investments, business positions in, or sources of income from any entity of the type which has, in any manner, been affected by or subject to departmental regulations or policies (excluding regulations or policies regarding building or energy standards).

(b) All investments, business positions in or sources of income from any entity engaged in the design of, development or rehabilitation of, sale or purchase of, or investment in real property, manufactured or factory–built housing.

(c) All investments, business positions in or sources of income from any entity engaged in the design, development, rehabilitation, or construction of public facilities.

(d) Any interest in real property (excluding one's primary personal residence) situated in any jurisdiction receiving or eligible for funding from or through the section to which the designated employee is assigned.

(e) Investments, business positions, or sources of income from any entity which is situated or doing business in any jurisdiction receiving or eligible for funding from or through the section to which the designated employee is assigned.

Designated Employees in Category 3 must report:

Investments, business positions in, or sources of income from any business entity of the type which contracts with the department to provide or obtain supplies, materials, services, machinery, or equipment.

Designated Employees in Category 4 must report:

Investments, business positions, or sources of income from any business entity which has been subject to or affected by any regulations or policies of the department relating to mobilehomes, manufactured homes, factory–built housing, mobilehome parks, labor camps, recreational vehicles, commercial coaches, or any other programs or policies administered by the division.

Designated Employees in Category 5 must report:

Investments in, income from, and positions held with business entities which were the subject of an audit during the reporting period.

NOTE: Authority cited: Section 87300, Government Code. Reference: Sections 87300–87311, Government Code.

* * *



Barclays Official

CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Division 1. Housing and Community Development

Chapter 6.5. Program Operations

Vol. 33

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Chapter 6.5. Program Operations

Subchapter 1. Loan and Grant Committees

§ 6900. Committee Membership.

(a) On an annual basis, the Director shall establish the membership of a single advisory committee.

(b) The advisory committee shall be known as the "Local Assistance Loan and Grant Committee," hereinafter "committee." All references to the following specific loan and grant committees contained in the California Code of Regulations, Title 25, Part I, Chapter 7 (commencing with Section 7000) shall be understood to be references to the Local Assistance Loan and Grant Committee:

(1) Rural Loan and Grant Committee,

(2) Urban Loan and Grant Committee,

(3) Rental Housing Construction Incentive Committee,

(4) Rehabilitation and Housing Assistance Loan and Grant Committee,

(5) Housing Development and Assistance Committee, and

(6) Rehabilitation and Construction Finance Committee.

(c) Committee membership shall consist of the following:

(1) No more than three Department employees.

(2) No less than four public members.

(d) The Department employees selected for the committee shall be selected from Department employees in exempt positions or Career Executive Assignments (CEA). In the event one or more department committee members are unable to attend a meeting of the committee, the Director may designate a substitute from among department employees in exempt positions or Career Executive Assignments (CEA).

(e) Public membership of the committee shall meet the following criteria:

(1) Each public member shall be representative of, or have experience in, one or more of the following areas:

(A) Private sector lending;

(B) For-profit housing development;

(C) Nonprofit housing development;

(D) Public sector housing development;

(E) Local or regional planning;

(F) Architecture;

(G) Local community development;

(H) Local government;

(I) Housing development consultation; and

(J) Housing issues related academia.

(2) Overall public membership shall contribute to a balance among geographic areas and between urban and rural interests.

NOTE: Authority cited: Section 50406(n), Health and Safety Code; and Section 11152, Government Code. Reference: Section 50402, Health and Safety Code; and Section 11152, Government Code.

HISTORY

1. Repealer and new section filed 4-28-89; operative 4-28-89 (Register 89, No. 18). For prior history, see Register 84, No. 6.

§ 6902. Committee Jurisdiction.

(a) The Committee shall review local assistance applications and other related issues as determined by the Director.

(b) The Director shall determine at least annually the specific local assistance programs that shall present applications for review by the Committee. The Director's determination shall be based on the following criteria:

(1) Budgetary authority;

(2) Impact on personnel resources; and

(3) Committee recommendations as to local assistance applications subject to review.

(c) The Director may modify the annual selection of local assistance programs pursuant to subsection (b) based on a change in a particular program or a reassessment of the selection criteria.

(d) At least annually, the Director also shall determine the type and nature of applications submitted to the designated local assistance programs that shall be reviewed by the Committee.

(e) The Director may modify the annual determination of the type and nature of applications pursuant to subsection (d) based n a change in the program or a reassessment of the workload of the program staff or of the committee.

(f) The Committee shall review other related issues as may be assigned at the discretion of the Director.

(g) Committee recommendations shall be advisory only.

NOTE: Authority cited: Section 50406(n), Health and Safety Code; and Section 11152, Government Code. Reference: Section 50402, Health and Safety Code; and Section 11152, Government Code.

HISTORY

1. Repealer and new section filed 4-28-89; operative 4-28-89 (Register 89, No. 18). For prior history, see Register 84, No.6.

§ 6904. Committee Operations.

The following provisions shall apply to Committee operations.

(a) Meetings shall be scheduled by the Director based on one or more of the following determinations.

(1) The level of applications is great enough to require that a meeting be scheduled;

(2) A special meeting is requested by the Committee, the need for which is verifiable; and

(3) The need exists to respond to an emergency situation as defined in Section 11125.5 of the Government Code.

(b) With the exception of emergency meetings, notice of all meetings shall be provided at least ten days prior to each meeting to all persons who have requested said notice in writing.

(c) Subject to the exceptions set forth in the Bagley-Keene Open Meeting Act, Government Code Sections 11120 et seq., all meetings shall be open to the public and all persons shall be permitted to attend any meeting.

(d) At least annually, the Director shall appoint a chairperson for the committee.

(e) Each member shall serve at the sole discretion of the Director and shall have one vote.

(f) The Committee shall consider all oral and written material presented and make recommendations to the Director as follows:

(1) Approve;

(2) Approve with conditions;

(3) Disapprove; and

(4) Continue to a future meeting.

(g) The minutes of all meetings and all other transactions shall be recorded and retained.

NOTE: Authority cited: Section 50406(n), Health and Safety Code; and Section 11152, Government Code. Reference: Section 50402, Health and Safety Code; and Section 11152, Government Code.

HISTORY

1. Repealer and new section filed 4-28-89; operative 4-28-89 (Register 89, No. 18). For prior history, see Register 84, No. 6.

§ 6906. Appeals.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 50402, 50517, 50517.5, 50542, 50626, 50662, 50680, 50690, 50700, 50735 and 50775, Health and Safety Code.

HISTORY

1. New section filed 8-26-80 as procedural and organizational; effective upon filing (Register 80, No. 35).
2. Amendment of subsections (a) and (b)(1) filed 4-21-82; effective thirtieth day thereafter (Register 82, No. 17).

3. Repealer filed 2–7–84; designated effective 3–1–84 pursuant to Government Code Section 11346.2(d) (Register 84, No. 6).

Subchapter 2. Program Eligibility and Affordability for Lower Income Households

§ 6910. Scope and Applicability.

(a) This subchapter applies only to certain programs as required by law and to any others which specifically incorporate these regulations or the statutes implemented by this subchapter. It does not apply in programs which receive federal assistance if federal requirements prohibit compliance with the definitions herein.

(b) The following programs must comply with all portions of this subchapter, including the provision of providing "affordable units":

Sales of surplus local agency property to certain housing corporations, pursuant to Government Code Section 50570,

Redevelopment agency tax increment expenditures for housing pursuant to Health and Safety Code Sections 33334.2 through 33334.5. Redevelopment agency replacement housing pursuant to Health and Safety Code Section 33413,

The Farmworker Housing Grant Program, pursuant to Health and Safety Code Section 50517.5,

The Residential Hotel Rehabilitation Program, pursuant to Health and Safety Code Section 50519,

The Mobilehome Parks for Senior Citizens Demonstration Project, pursuant to Health and Safety Code Section 50540,

The Rental Housing Construction Program, pursuant to Health and Safety Code Section 50735,

The Demonstration Housing Rehabilitation Program, pursuant to Health and Safety Code Section 50669,

CHFA Multi-Family Rental Developments, pursuant to Health and Safety Code Section 51200.

(c) The following programs must comply with certain portions of this subchapter. Reference must be made to specific statutes to determine applicability.

The annual report by the Superintendent of Banks, pursuant to Financial Code Section 1237,

The annual report of the Savings and Loan Commissioner, pursuant to Financial Code Section 7153.9,

Relocation assistance to residents in publicly-assisted rehabilitation, pursuant to Government Code Section 7265.3,

Rental or housing in the Capitol Area Plan, pursuant to the Government Code Section 8169,

Transfers of surplus state lands pursuant to Government Code Section 11011.1,

Sales by counties of certain residential properties pursuant to Government Code Section 25539.2,

Sales by cities of certain residential properties, pursuant to Government Code Section 37363,

Disposal of state surplus residential property pursuant to Government Code Section 54235, et seq. ("SB 86"),

Density bonuses and other incentives, pursuant to Section 65915 of the Government Code,

Redevelopment agency merger obligations pursuant to Health and Safety Code Section 33464,

Dislocation due to the Marks-Foran Residential Rehabilitation Program, pursuant to Health and Safety Code Section 37922.2,

The (Rural) Predevelopment Loan Fund, pursuant to Health and Safety Code Section 50515,

The Urban Housing Development Loan Fund, pursuant to Health and Safety Code Section 50530,

The Low-Income Home Management Training Program, pursuant to Health and Safety Code Section 50600,

The Deferred Payment Rehabilitation Loan Program, pursuant to Health and Safety Code Section 50660,

The Housing Advisory Service Program, pursuant to Health and Safety Code Section 50690,

The (Rural) Land Purchase Fund, pursuant to Health and Safety Code Section 50700,

The Homeownership Assistance Program, pursuant to Health and Safety Code Section 50770,

CHFA Home Ownership and Home Improvement Loan Program, pursuant to Health and Safety Code Section 51300,

Housing in the Coastal Zone, pursuant to Public Resources Code Section 30213,

Tax benefits for rehabilitation of single-family structures pursuant to Revenue and Taxation Code Section 3772.5.

NOTE: Authority cited: Sections 50052.5, 50053, 50079.5, 50093, and 50105, Health and Safety Code. Reference: Sections 1237, 7153.9, Financial Code; Sections 8169, 11011.1, 25539.2, 37363, 50570, 54235, and 65915, Government Code; Sections 33334.2 through 33334.5, 33413, 33464, 37922.2, 50515, 50517.5, 50519, 50530, 50540, 50600, 50640, 50660, 50669, 50690, 50700, 50735, 50770, 51050, and 51330, Health and Safety Code; Section 30213, Public Resources Code; and 3772.5, Revenue and Taxation Code.

HISTORY

1. New subchapter 2 (Sections 6910–6932, not consecutive) filed 7–11–80; effective thirtieth day thereafter (Register 80, No. 28).
2. Editorial amendment of subsection (d) filed 10–17–80; effective upon filing (Register 80, No. 42).
3. Editorial correction repealing subsection (a) and relettering subsections (b)–(d) to (a)–(c) filed 4–27–83 (Register 83, No. 18).

§ 6912. Definitions.

For purposes of this subchapter, the following definitions shall apply:

"Affordable housing cost"—see Section 6924

"Affordable rent"—see Section 6922

"Exceptional medical or other expenses" means medical expenses, and/or unusual expenses, as defined in this section, which exceed 25% of the gross annual income.

"Gross income"—see Section 6914

"Housing cost of purchaser"—see Section 6920

"Large very low income family" means a very low income family which includes six or more minors.

"Low income household"—see Section 6928

"Lower income household"—see Section 6928

"Medical expenses" means those medical expenses which are to be anticipated during the 12-month period for which the gross income is computed, and which are not covered by insurance (however, premiums for such insurance may be included as medical expenses).

"Minor" means a member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a full-time student and lives at home.

"Moderate income household"—see Section 6930

"Net income"—see Section 6916

"Other lower-income household"—see Section 6928

"Persons and families of low or moderate income"—see Section 6930

"Persons of low income"—see Section 6928

"Rent"—see Section 6918

"Unusual expenses" means amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care is necessary to enable a family member to be gainfully employed, and the amount allowable as unusual expenses shall not exceed the amount of income from such employment.

"Very large lower-income family" means a lower income family which includes eight or more minors.

"Very low income household"—see Section 6926

NOTE: Authority cited: Sections 50052.5, 50053, 50079.5, 50093, 50105, Health and Safety Code. Reference: Sections 50052.5, 50053, 50079.5, 50093, 50105, Health and Safety Code.

§ 6914. Gross Income.

"Gross income" shall mean the anticipated income of a person or family for the twelve-month period following the date of determination of income. If the circumstances are such that it is not reasonably feasible to

anticipate a level of income over a twelve-month period, a shorter period may be used subject to a redetermination at the end of such a period. "Income" shall consist of the following:

(a) Except as provided in subdivision (b), all payments from all sources received by the family head (even if temporarily absent) and each additional member of the family household who is not a minor shall be included in the annual income of a family. Income shall include, but not be limited to:

(1) The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;

(2) The net income from operation of a business or profession or from rental or real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);

(3) Interest and dividends;

(4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts;

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (but see subdivision (b)(3)).

(6) Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus

(B) The maximum amount which the public assistance agency could in fact allow for the family for shelter and utilities.

(7) Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the family or spouse (but see subdivision (b)(5)).

Where a family has net family assets in excess of $5,000, income shall include the actual amount of income, if any, derived from all of the net family assets or 10 percent of the value of all such assets, whichever is greater. For purposes of this section, net family assets means value of equity in real property other than the household's full-time residence, savings, stocks, bonds, and other forms of capital investment. The value of necessary items such as furniture and automobiles shall be excluded.

(b) The following items shall not be considered as income:

(1) Casual, sporadic or irregular gifts;

(2) Amounts which are specifically for or in reimbursement of the cost of medical expenses;

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;

(4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans not used for the above purposes of which are available for subsistence are to be included in income;

(5) The special pay to a serviceman head of a family away from home and exposed to hostile fire;

(6) Relocation payments made pursuant to federal, state, or local relocation law;

(7) Foster child care payments;

(8) The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household;

(9) Payments received pursuant to participation in the following volunteer programs under the ACTION Agency:

(A) National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer Programs.

(B) National Older American Volunteer Programs for persons aged 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).

NOTE: Authority cited: Sections 50053 and 50093, Health and Safety Code. Reference: Sections 50052.5, 50053 and 50093, Health and Safety Code.

HISTORY

1. Editorial correction of NOTE filed 4-27-83 (Register 83, No. 18).

§ 6916. Net Income.

(a) For the purpose of determining affordable housing cost or affordable rent, "net income" shall be computed as follows: the annual gross income less $300 for each minor and medical expenses which exceed 3 percent of the annual gross income and unusual expenses, all divided by 12.

NOTE: Authority cited: Sections 50053, 50093, Health and Safety Code. Reference: Sections 50053, 50093, Health and Safety Code.

§ 6918. Rent.

"Rent" shall mean the total of monthly payments for a rental or cooperative unit for:

(a) Use and occupancy of a housing unit and land and facilities associated therewith.

(b) Any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.

(c) A reasonable allowance for utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Utilities does not include telephone service. Such an allowance shall take into consideration the cost of an adequate level of service.

(d) Possessory interest, taxes, or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than the lessor.

Monthly rent shall be an average of estimated costs for the next twelve months.

NOTE: Authority cited: Sections 50052.5 and 50053, Health and Safety Code. Reference: Sections 50052.5, 50053, and 50098, Health and Safety Code.

HISTORY

1. Editorial correction of NOTE filed 4-27-83 (Register 83, No. 18).

§ 6920. Housing Cost of a Purchaser.

"Housing cost" of a person or family purchasing a housing unit shall include all of the following associated with that housing unit:

(a) Principal and interest on a mortgage loan including any rehabilitation loans, and any loan insurance fees associated therewith.

(b) Property taxes and assessments.

(c) Fire and casualty insurance covering replacement value of property improvements.

(d) Property maintenance and repairs.

(e) A reasonable allowance for utilities, including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuels. Utilities does not include telephone service. Such an allowance shall take into consideration the cost of an adequate level of service.

(f) Homeowner association fees.

(g) Space rent, if the housing unit is situated on rented land.

Monthly housing cost of a purchaser shall be an average of estimated costs for the next twelve months.

NOTE: Authority cited: Section 50052.5, Health and Safety Code. Reference: Section 50052.5, Health and Safety Code.

§ 6922. Affordable Rent.

(a) Affordable rent for a lower income household shall be the maximum rent permitted by this subchapter. Except as provided in subdivision

(b), the person or family's maximum monthly rent shall be 25 percent of the monthly net income, but in no event less than 15 percent of monthly gross income.

(b) The monthly rent shall be 15 percent of the monthly gross income if the family is:

(1) A large, very low income family, or

(2) A very large, lower income family, or

(3) A family which has exceptional medical or other expenses.

(c) To the extent that the implementing statute of a program administered by the department permits modification of this standard on the basis of economic or financial feasibility or other grounds, the department shall make a finding of such necessity when a modified standard is utilized.

(d) "Affordable rent" also means rent charged as a tenant contribution under the provisions of Section 8 of the United States Housing Act of 1937, as amended, when the unit or household is receiving assistance pursuant to the Section 8 program.

NOTE: Authority cited: Sections 50052.5 and 50053, Health and Safety Code. Reference: Sections 50052.5 and 50053, Health and Safety Code.

HISTORY

1. New subsection (d) filed 6–16–82 as procedural and organizational; effective upon filing (Register 82, No. 25).
2. New subsection (e) filed 8–11–82 as an emergency; effective upon filing (Register 82, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–9–82.
3. Certificate of Compliance including amendment of subsection (e) filed 11–19–82 (Register 82, No. 47).
4. Editorial correction repealing subsection (c) and relettering subsections (d) and (e) to (c) and (d) filed 4–27–83 (Register 83, No. 18).

§ 6924. Affordable Housing Costs (Purchasers).

(a) Affordable costs for purchasers of dwelling units means, with respect to lower income households, housing costs, as defined in Section 6920, not exceeding 25 percent of gross income.

(b) Construction costs, mortgage loans, and sales prices will be adequate to make housing available to an income group at affordable housing costs if such construction costs, mortgage loans, and sales prices, with no more than a reasonable downpayment, will result in a monthly housing cost, as defined in Section 6920, which does not average more than the amount computed in Column B or exceed for any one unit the amount computed in Column C:

(1) For lower income households with incomes above the very low income limits:

Number of Bedrooms (Column A)	*Maximum Average Unit Computations* (Column B)		*Maximum Individual Unit Computations* (Column C)
1	Lower income limit for 2–person family + 96	Very low income limit for 1–person family	Lower income limit for 2–person family 48
2	Lower income limit for 3–person family + 96	Very low income limit for 3–person family	Lower income limit for 3–person family 48
3	Lower income limit for 5–person family + 96	Very low income limit for 4–person family	Lower income limit for 5–person family 48
4 or more	Lower income limit for 7–person family + 96	Very low income limit for 6–person family	Lower income limit for 7–person family 48

(2) For very low income households:

Number of Bedrooms (Column A)	*Maximum Average Unit Computations* (Column B)	*Maximum Individual Unit Computations* (Column C)
1	Very low income limit for 2–person family x .6 48	Very low income limit for 2–person family 48
2	Very low income limit for 3–person family x .7 48	Very low income limit for 3–person family 48
3	Very low income limit for 5–person family x .6 48	Very low income limit for 5–person family 48
4 or more	Very low income limit for 7–person family x .6 48	Very low income limit for 7–person family 48

In the computations above, the lower income and very low income limits are the limits for the county in which the housing units are located or to be located.

(c) To the extent that the implementing statute of a program administered by the department permits modification of this standard on the basis of economic or financial feasibility or other grounds, the department shall make a finding of such necessity when a modified standard is utilized.

NOTE: Authority cited: Sections 50052.5 and 50053, Health and Safety Code. Reference: Sections 50052.5 and 50053, Health and Safety Code.

HISTORY

1. New subsection (d) filed 6–16–82 as procedural and organizational; effective upon filing (Register 82, No. 25).
2. Editorial correction repealing subsection (c) and relettering subsection (d) to (c) filed 4–27–83 (Register 83, No. 18).

§ 6926. Very Low Income Households.

(a) "Very low income households" means persons and families whose gross incomes do not exceed the qualifying limits for very low income families established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The qualifying limits are set forth in Section 6932. These limits are equivalent to 50 percent of the area median income, adjusted for family size by the United States Department of Housing and Urban Development.

(b) "Very low income households" means the same as "very low income families" and "very low income person."

NOTE: Authority cited: Section 50105, Health and Safety Code. Reference: Section 50105, Health and Safety Code.

§ 6928. Lower Income Households.

(a) "Lower income households" means persons and families whose gross incomes do not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The qualifying limits are set forth in Section 6932. These limits are equivalent to 80 percent of the area median income, adjusted for family size and other adjustment factors by the United States Department of Housing and Urban Development.

(b) "Lower income households" includes very low income households.

(c) "Other lower income households" are those lower income households who are not very low income households.

(d) "Lower income households" means the same as "low income households," "persons of low income," and "low income families."

NOTE: Authority cited: Section 50079.5, Health and Safety Code. Reference: Section 50079.5, Health and Safety Code.

§ 6930. Moderate Income Households.

(a) "Moderate income households" means persons and families who are not "lower income households" and whose gross incomes do not exceed 120 percent of the area median income adjusted for family size in accordance with adjustment factors adopted by the United States Department of Housing and Urban Development in establishing income limits for lower income families. For purposes of this subchapter, the income limits are set forth in Section 6932.

(b) The maximum gross income limits for moderate income households is the same as that for "persons and families of moderate income" and "persons and families of low or moderate income."

(c) "Persons and families of low or moderate income" includes very low, lower, and moderate income households.

NOTE: Authority cited: Section 50093, Health and Safety Code. Reference: Section 50093, Health and Safety Code.

§ 6932. Income Limits.

County	Income Category	Number of Persons in Household 1	2	3	4	5	6	7	8
Alameda County	Extremely Low	18,100	20,700	23,250	25,850	27,900	30,000	32,050	34,100
Area Median	Very Low Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
Income: $86,100	Lower Income	46,350	53,000	59,600	66,250	71,550	76,850	82,150	87,450
	Median Income	60,300	68,900	77,500	86,100	93,000	99,900	106,800	113,700
	Moderate Income	72,300	82,600	93,000	103,300	111,600	119,800	128,100	136,400
Alpine County	Extremely Low	14,550	16,650	18,700	20,800	22,450	24,150	25,800	27,450
Area Median	Very Low Income	24,300	27,750	31,250	34,700	37,500	40,250	43,050	45,800
Income: $69,400	Lower Income	38,850	44,400	49,950	55,500	59,950	64,400	68,800	73,250
	Median Income	48,600	55,500	62,500	69,400	75,000	80,500	86,100	91,600
	Moderate Income	58,300	66,600	75,000	83,300	90,000	96,600	103,300	110,000
Amador County	Extremely Low	14,000	16,000	18,000	20,000	21,600	23,200	24,800	26,400
Area Median	Very Low Income	23,350	26,700	30,000	33,350	36,000	38,700	41,350	44,000
Income: $66,700	Lower Income	37,350	42,700	48,000	53,350	57,600	61,900	66,150	70,400
	Median Income	46,700	53,400	60,000	66,700	72,000	77,400	82,700	88,000
	Moderate Income	56,000	64,000	72,000	80,000	86,400	92,800	99,200	105,600
Butte County	Extremely Low	11,450	13,100	14,700	16,350	17,650	18,950	20,250	21,600
Area Median	Very Low Income	19,100	21,800	24,550	27,250	29,450	31,600	33,800	35,950
Income: $54,500	Lower Income	30,500	34,900	39,250	43,600	47,100	50,600	54,050	57,550
	Median Income	38,200	43,600	49,100	54,500	58,900	63,200	67,600	71,900
	Moderate Income	45,800	52,300	58,900	65,400	70,600	75,900	81,100	86,300
Calaveras County	Extremely Low	12,900	14,700	16,550	18,400	19,850	21,350	22,800	24,300
Area Median	Very Low Income	21,500	24,550	27,650	30,700	33,150	35,600	38,050	40,500
Income: $61,400	Lower Income	34,350	39,300	44,200	49,100	53,050	56,950	60,900	64,800
	Median Income	43,000	49,100	55,300	61,400	66,300	71,200	76,100	81,000
	Moderate Income	51,600	59,000	66,300	73,700	79,600	85,500	91,400	97,300
Colusa County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Contra Costa County	Extremely Low	18,100	20,700	23,250	25,850	27,900	30,000	32,050	34,100
Area Median	Very Low Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
Income: $86,100	Lower Income	46,350	53,000	59,600	66,250	71,550	76,850	82,150	87,450
	Median Income	60,300	68,900	77,500	86,100	93,000	99,900	106,800	113,700
	Moderate Income	72,300	82,600	93,000	103,300	111,600	119,800	128,100	136,400
Del Norte County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
El Dorado County	Extremely Low	14,900	17,050	19,150	21,300	23,000	24,700	26,400	28,100
Area Median	Very Low Income	24,850	28,400	31,950	35,500	38,350	41,200	44,000	46,850
Income: $71,000	Lower Income	39,750	45,450	51,100	56,800	61,350	65,900	70,450	75,000
	Median Income	49,700	56,800	63,900	71,000	76,700	82,400	88,000	93,700
	Moderate Income	59,600	68,200	76,700	85,200	92,000	98,800	105,600	112,500
Fresno County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Glenn County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Humboldt County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300

County	Income Category	1	2	3	4	5	6	7	8
Imperial County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Inyo County	Extremely Low	12,100	13,800	15,550	17,250	18,650	20,000	21,400	22,750
Area Median	Very Low Income	20,150	23,000	25,900	28,750	31,050	33,350	35,650	37,950
Income: $57,500	Lower Income	32,200	36,800	41,400	46,000	49,700	53,350	57,050	60,700
	Median Income	40,300	46,000	51,800	57,500	62,100	66,700	71,300	75,900
	Moderate Income	48,300	55,200	62,100	69,000	74,500	80,000	85,600	91,100
Kern County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Kings County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Lake County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Lassen County	Extremely Low	11,700	13,350	15,050	16,700	18,050	19,350	20,700	22,050
Area Median	Very Low Income	19,450	22,250	25,000	27,800	30,000	32,250	34,450	36,700
Income: $55,600	Lower Income	31,150	35,600	40,050	44,500	48,050	51,600	55,200	58,750
	Median Income	38,900	44,500	50,000	55,600	60,000	64,500	68,900	73,400
	Moderate Income	46,700	53,400	60,000	66,700	72,000	77,400	82,700	88,000
Los Angeles County	Extremely Low	15,950	18,200	20,500	22,750	24,550	26,400	28,200	30,050
Area Median	Very Low Income	26,550	30,300	34,100	37,900	40,950	43,950	47,000	50,050
Income: $59,800	Lower Income	42,450	48,500	54,600	60,650	65,500	70,350	75,200	80,050
	Median Income	41,900	47,800	53,800	59,800	64,600	69,400	74,200	78,900
	Moderate Income	50,300	57,400	64,600	71,800	77,500	83,300	89,000	94,800
Madera County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Marin County	Extremely Low	23,750	27,150	30,550	33,950	36,650	39,400	42,100	44,800
Area Median	Very Low Income	39,600	45,250	50,900	56,550	61,050	65,600	70,100	74,650
Income: $95,000	Lower Income	63,350	72,400	81,450	90,500	97,700	104,950	112,200	119,450
	Median Income	66,500	76,000	85,500	95,000	102,600	110,200	117,800	125,400
	Moderate Income	79,800	91,200	102,600	114,000	123,100	132,200	141,400	150,500
Mariposa County	Extremely Low	11,350	12,950	14,600	16,200	17,500	18,800	20,100	21,400
Area Median	Very Low Income	18,900	21,600	24,300	27,000	29,150	31,300	33,500	35,650
Income: $54,000	Lower Income	30,250	34,550	38,900	43,200	46,650	50,100	53,550	57,000
	Median Income	37,800	43,200	48,600	54,000	58,300	62,600	67,000	71,300
	Moderate Income	45,400	51,800	58,300	64,800	70,000	75,200	80,400	85,500
Mendocino County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Merced County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Modoc County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Mono County	Extremely Low	13,850	15,800	17,800	19,750	21,350	22,900	24,500	26,050
Area Median	Very Low Income	23,050	26,350	29,650	32,950	35,600	38,200	40,850	43,500
Income: $65,900	Lower Income	36,900	42,150	47,450	52,700	56,900	61,150	65,350	69,550
	Median Income	46,100	52,700	59,300	65,900	71,200	76,400	81,700	87,000
	Moderate Income	55,400	63,300	71,200	79,100	85,400	91,800	98,100	104,400
Monterey County	Extremely Low	13,600	15,550	17,500	19,450	21,000	22,550	24,100	25,650
Area Median	Very Low Income	22,700	25,900	29,150	32,400	35,000	37,600	40,200	42,750
Income: $64,800	Lower Income	36,300	41,500	46,650	51,850	56,000	60,150	64,300	68,450
	Median Income	45,400	51,800	58,300	64,800	70,000	75,200	80,400	85,500
	Moderate Income	54,500	62,200	70,000	77,800	84,000	90,200	96,500	102,700

County	Income Category	1	2	3	4	5	6	7	8
Napa County	Extremely Low	16,750	19,100	21,500	23,900	25,800	27,700	29,650	31,550
Area Median	Very Low Income	27,850	31,850	35,800	39,800	43,000	46,150	49,350	52,550
Income: $79,600	Lower Income	43,050	49,200	55,350	61,500	66,400	71,350	76,250	81,200
	Median Income	55,700	63,700	71,600	79,600	86,000	92,300	98,700	105,100
	Moderate Income	66,900	76,400	86,000	95,500	103,100	110,800	118,400	126,100
Nevada County	Extremely Low	13,700	15,650	17,600	19,550	21,100	22,700	24,250	25,800
Area Median	Very Low Income	22,800	26,050	29,300	32,550	35,150	37,750	40,350	42,950
Income: $65,100	Lower Income	36,450	41,700	46,900	52,100	56,250	60,450	64,600	68,750
	Median Income	45,600	52,100	58,600	65,100	70,300	75,500	80,700	85,900
	Moderate Income	54,700	62,500	70,300	78,100	84,300	90,600	96,800	103,100
Orange County	Extremely Low	19,550	22,300	25,100	27,900	30,150	32,350	34,600	36,850
Area Median	Very Low Income	32,550	37,200	41,850	46,500	50,200	53,950	57,650	61,400
Income: $84,100	Lower Income	52,100	59,500	66,950	74,400	80,350	86,300	92,250	98,200
	Median Income	58,900	67,300	75,700	84,100	90,800	97,600	104,300	110,000
	Moderate Income	70,600	80,700	90,800	100,900	109,000	117,000	125,100	133,200
Placer County	Extremely Low	14,900	17,050	19,150	21,300	23,000	24,700	26,400	28,100
Area Median	Very Low Income	24,850	28,400	31,950	35,500	38,350	41,200	44,000	46,850
Income: $71,000	Lower Income	39,750	45,450	51,100	56,800	61,350	65,900	70,450	75,000
	Median Income	49,700	56,800	63,900	71,000	76,700	82,400	88,000	93,700
	Moderate Income	59,600	68,200	76,700	85,200	92,000	98,800	105,600	112,500
Plumas County	Extremely Low	12,450	14,200	16,000	17,750	19,150	20,600	22,000	23,450
Area Median	Very Low Income	20,700	23,650	26,600	29,550	31,900	34,300	36,650	39,000
Income: $59,100	Lower Income	33,100	37,850	42,550	47,300	51,100	54,850	58,650	62,450
	Median Income	41,400	47,300	53,200	59,100	63,800	68,600	73,300	78,000
	Moderate Income	49,600	56,700	63,800	70,900	76,600	82,200	87,900	93,600
Riverside County	Extremely Low	14,000	16,000	18,000	20,000	21,600	23,200	24,800	26,400
Area Median	Very Low Income	23,300	26,650	29,950	33,300	35,950	38,650	41,300	43,950
Income: $62,000	Lower Income	37,300	42,650	47,950	53,300	57,550	61,850	66,100	70,350
	Median Income	43,400	49,600	55,800	62,000	67,000	71,900	76,900	81,800
	Moderate Income	52,100	59,500	67,000	74,400	80,400	86,300	92,300	98,200
Sacramento County	Extremely Low	14,900	17,050	19,150	21,300	23,000	24,700	26,400	28,100
Area Median	Very Low Income	24,850	28,400	31,950	35,500	38,350	41,200	44,000	46,850
Income: $71,000	Lower Income	39,750	45,450	51,100	56,800	61,350	65,900	70,450	75,000
	Median Income	49,700	56,800	63,900	71,000	76,700	82,400	88,000	93,700
	Moderate Income	59,600	68,200	76,700	85,200	92,000	98,800	105,600	112,500
San Benito County	Extremely Low	16,400	18,700	21,050	23,400	25,250	27,150	29,000	30,900
Area Median	Very Low Income	27,300	31,200	35,100	39,000	42,100	45,250	48,350	51,500
Income: $78,000	Lower Income	43,050	49,200	55,350	61,500	66,400	71,350	76,250	81,200
	Median Income	54,600	62,400	70,200	78,000	84,200	90,500	96,700	103,000
	Moderate Income	65,500	74,900	84,200	93,600	101,100	108,600	116,100	123,600
San Bernardino	Extremely Low	14,000	16,000	18,000	20,000	21,600	23,200	24,800	26,400
County	Very Low Income	23,300	26,650	29,950	33,300	35,950	38,650	41,300	43,950
Area Median	Lower Income	37,300	42,650	47,950	53,300	57,550	61,850	66,100	70,350
Income: $62,000	Median Income	43,400	49,600	55,800	62,000	67,000	71,900	76,900	81,800
	Moderate Income	52,100	59,500	67,000	74,400	80,400	86,300	92,300	98,200
San Diego County	Extremely Low	16,600	18,950	21,350	23,700	25,600	27,500	29,400	31,300
Area Median	Very Low Income	27,650	31,600	35,550	39,500	42,650	45,800	49,000	52,150
Income: $72,100	Lower Income	44,250	50,550	56,900	63,200	68,250	73,300	78,350	83,400
	Median Income	50,500	57,700	64,900	72,100	77,900	83,600	89,400	95,200
	Moderate Income	60,500	69,200	77,900	86,500	93,400	100,300	107,300	114,200
San Francisco County	Extremely Low	23,750	27,150	30,550	33,950	36,650	39,400	42,100	44,800
Area Median	Very Low Income	39,600	45,250	50,900	56,550	61,050	65,600	70,100	74,650
Income: $95,000	Lower Income	63,350	72,400	81,450	90,500	97,700	104,950	112,200	119,450
	Median Income	66,500	76,000	85,500	95,000	102,600	110,200	117,800	125,400
	Moderate Income	79,800	91,200	102,600	114,000	123,100	132,200	141,400	150,500
San Joaquin County	Extremely Low	12,900	14,700	16,550	18,400	19,850	21,350	22,800	24,300
Area Median	Very Low Income	21,450	24,500	27,600	30,650	33,100	35,550	38,000	40,450
Income: $61,300	Lower Income	34,350	39,250	44,150	49,050	52,950	56,900	60,800	64,750
	Median Income	42,900	49,000	55,200	61,300	66,200	71,100	76,000	80,900
	Moderate Income	51,500	58,900	66,200	73,600	79,500	85,400	91,300	97,200
San Luis Obispo	Extremely Low	14,050	16,100	18,100	20,100	21,700	23,300	24,900	26,550
County	Very Low Income	23,450	26,800	30,150	33,500	36,200	38,850	41,550	44,200
Area Median	Lower Income	37,500	42,900	48,250	53,600	57,900	62,200	66,450	70,750
Income: $67,000	Median Income	46,900	53,600	60,300	67,000	72,400	77,700	83,100	88,400
	Moderate Income	56,300	64,300	72,400	80,400	86,800	93,300	99,700	106,100
San Mateo County	Extremely Low	23,750	27,150	30,550	33,950	36,650	39,400	42,100	44,800
Area Median	Very Low Income	39,600	45,250	50,900	56,550	61,050	65,600	70,100	74,650
Income: $95,000	Lower Income	63,350	72,400	81,450	90,500	97,700	104,950	112,200	119,450
	Median Income	66,500	76,000	85,500	95,000	102,600	110,200	117,800	125,400
	Moderate Income	79,800	91,200	102,600	114,000	123,100	132,200	141,400	150,500
Santa Barbara County	Extremely Low	16,350	18,700	21,000	23,350	25,200	27,100	28,950	30,800
Area Median	Very Low Income	27,250	31,100	35,000	38,900	42,000	45,100	48,250	51,350
Income: $67,100	Lower Income	43,600	49,800	56,050	62,250	67,250	72,200	77,200	82,150
	Median Income	47,000	53,700	60,400	67,100	72,500	77,800	83,200	88,600
	Moderate Income	56,400	64,400	72,500	80,500	86,900	93,400	99,800	106,300

County	Income Category	1	2	3	4	5	6	7	8
Santa Clara County	Extremely Low	22,300	25,500	28,650	31,850	34,400	36,950	39,500	42,050
Area Median	Very Low Income	37,150	42,450	47,750	53,050	57,300	61,550	65,800	70,050
Income: $105,500	Lower Income	59,400	67,900	76,400	84,900	91,650	98,450	105,250	112,050
	Median Income	73,900	84,400	95,000	105,500	113,900	122,400	130,800	139,300
	Moderate Income	88,600	101,300	113,900	126,600	136,700	146,900	157,000	167,100
Santa Cruz County	Extremely Low	18,250	20,900	23,500	26,100	28,200	30,300	32,350	34,450
Area Median	Very Low Income	30,450	34,800	39,150	43,500	47,000	50,450	53,950	57,400
Income: $81,300	Lower Income	48,700	55,700	62,650	69,600	75,150	80,750	86,300	91,850
	Median Income	56,900	65,000	73,200	81,300	87,800	94,300	100,800	107,300
	Moderate Income	68,300	78,100	87,800	97,600	105,400	113,200	121,000	128,800
Shasta County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Sierra County	Extremely Low	11,850	13,500	15,200	16,900	18,250	19,600	20,950	22,300
Area Median	Very Low Income	19,750	22,550	25,400	28,200	30,450	32,700	34,950	37,200
Income: $53,800	Lower Income	31,550	36,100	40,600	45,100	48,700	52,300	55,900	59,550
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Siskiyou County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Solano County	Extremely Low	15,800	18,100	20,350	22,600	24,400	26,200	28,000	29,850
Area Median	Very Low Income	26,400	30,150	33,950	37,700	40,700	43,750	46,750	49,750
Income: $75,400	Lower Income	42,200	48,250	54,250	60,300	65,100	69,950	74,750	79,600
	Median Income	52,800	60,300	67,900	75,400	81,400	87,500	93,500	99,500
	Moderate Income	63,300	72,400	81,500	90,500	97,700	105,000	112,200	119,500
Sonoma County	Extremely Low	16,350	18,700	21,000	23,350	25,200	27,100	28,950	30,800
Area Median	Very Low Income	27,250	31,100	35,000	38,900	42,000	45,100	48,250	51,350
Income: $77,800	Lower Income	43,050	49,200	55,350	61,500	66,400	71,350	76,250	81,200
	Median Income	54,500	62,200	70,000	77,800	84,000	90,200	95,500	102,700
	Moderate Income	64,400	74,700	84,100	93,400	100,900	108,300	115,800	123,300
Stanislaus County	Extremely Low	11,850	13,550	15,250	16,950	18,300	19,650	21,000	22,350
Area Median	Very Low Income	19,800	22,600	25,450	28,250	30,500	32,750	35,050	37,300
Income: $56,500	Lower Income	31,650	36,150	40,700	45,200	48,800	52,450	56,050	59,650
	Median Income	39,600	45,200	50,900	56,500	61,000	65,500	70,100	74,600
	Moderate Income	47,500	54,200	61,000	67,800	73,200	78,600	84,100	89,500
Sutter County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Tehama County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Trinity County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Tulare County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300
Tuolumne County	Extremely Low	12,100	13,800	15,550	17,250	18,650	20,000	21,400	22,750
Area Median	Very Low Income	20,150	23,000	25,900	28,750	31,050	33,350	35,650	37,950
Income: $57,500	Lower Income	32,200	36,800	41,400	46,000	49,700	53,350	57,050	60,700
	Median Income	40,300	46,000	51,800	57,500	62,100	66,700	71,300	75,900
	Moderate Income	48,300	55,200	62,100	69,000	74,500	80,000	85,600	91,100
Ventura County	Extremely Low	18,000	20,550	23,150	25,700	27,750	29,800	31,850	33,900
Area Median	Very Low Income	30,000	34,300	38,550	42,850	46,300	49,700	53,150	56,550
Income: $83,900	Lower Income	48,000	54,850	61,700	68,550	74,050	79,500	85,000	90,500
	Median Income	58,700	67,100	75,500	83,900	90,600	97,300	104,000	110,700
	Moderate Income	70,500	80,600	90,600	100,700	108,800	116,800	123,900	132,900
Yolo County	Extremely Low	14,900	17,050	19,150	21,300	23,000	24,700	26,400	28,100
Area Median	Very Low Income	24,850	28,400	31,950	35,500	38,350	41,200	44,000	46,850
Income: $71,000	Lower Income	39,750	45,450	51,100	56,800	61,350	65,900	70,450	75,000
	Median Income	49,700	56,800	63,900	71,000	76,700	82,400	88,000	93,700
	Moderate Income	59,600	68,200	76,700	85,200	92,000	98,800	105,600	112,500

County	Income Category	1	2	3	4	5	6	7	8
Yuba County	Extremely Low	11,300	12,900	14,550	16,150	17,450	18,750	20,050	21,300
Area Median	Very Low Income	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500
Income: $53,800	Lower Income	30,150	34,450	38,750	43,050	46,500	49,950	53,400	56,850
	Median Income	37,700	43,000	48,400	53,800	58,100	62,400	66,700	71,000
	Moderate Income	45,200	51,700	58,100	64,600	69,800	74,900	80,100	85,300

Instructions and example to determine income limit for households larger than eight persons:

Per person (PP) adjustment above 8: (1) multiply the 4–person income limit by eight percent (8%), (2) multiply result by number of persons in excess of eight, (3) add the amount to the 8–person income limit, and (4) round the result to the nearest $100.

EXAMPLE	*4 persons*	*8% PP Adj +*	*8 persons =*	*9 persons*	*8 person +*	*8% Adj x 2*	*=10 persons*
Extremely Low	16,150	1292	21,300	22,600	21,300	2584	23,900
Very Low Income	26,900	2152	35,500	37,700	35,500	4304	39,800
Lower Income	43,050	3444	56,800	60,200	56,800	6888	63,700
Moderate Income	64,600	5168	85,300	90,500	85,300	10336	95,600

NOTE: Authority cited: Section 50093, Health and Safety Code. Reference: Sections 50079.5, 50093, 50105 and 50106, Health and Safety Code.

HISTORY

1. Repealer and new section filed 12–23–81 as procedural and organizational; effective upon filing (Register 81, No. 52).
2. Repealer and new section filed 5–19–83 as an emergency; effective upon filing (Register 83, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–16–83.
3. Certificate of Compliance transmitted to OAL 8–29–83 and filed 10–19–83 (Register 83, No. 43).
4. Repealer and new section filed 7–23–84 as an emergency; effective upon filing (Register 84, No. 30). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–20–84.
5. Certificate of Compliance filed 11–6–84 (Register 84, No. 45)
6. Amendment filed 2–21–86 as an emergency; effective upon filing (Register 86, No. 8). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–23–86.
7. Certificate of Compliance filed 5–1–86 (Register 86, No. 18).
8. Amendment filed 3–9–87 as an emergency; effective upon filing (Register 87, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–7–87.
9. Certificate of Compliance filed 6–9–87 (Register 87, No. 25).
10. Amendment filed 2–25–88 as an emergency; operative 2–25–88 (Register 88, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–24–88.
11. Certificate of Compliance transmitted to OAL 5–3–88 and filed 5–27–88 (Register 88, No. 23).
12. Amendment filed 7–13–88 as an emergency; operative 7–13–88 (Register 88, No. 29). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–10–88.
13. Certificate of Compliance transmitted to OAL 9–30–88 and filed 10–26–88 (Register 88, No. 45).
14. Amendment filed 3–30–89; operative 3–30–89 (Register 89, No. 13).
15. Amendment filed 4–16–90; operative 4–16–90 (Register 90, No. 17).
16. Change without regulatory effect amending section filed 6–18–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 38).
17. Change without regulatory effect amending section filed 7–21–92; operative 7–21–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 30).
18. Change without regulatory effect amending section filed 6–3–93; operative 5–5–93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 23).
19. Change without regulatory effect amending section filed 7–26–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 30).
20. Change without regulatory effect amending section filed 3–29–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 13).
21. Change without regulatory effect amending section filed 2–28–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 9).
22. Change without regulatory effect repealing section and adopting new section filed 2–18–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 8).
23. Change without regulatory effect repealing section and adopting new section filed 3–3–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 10).
24. Repealer and new section filed 3–17–99; operative 3–17–99. Submitted to OAL for printing only (Register 99, No. 12).
25. Change without regulatory effect repealing and adopting new section filed 4–26–2000 and amended action filed 4–28–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 17).
26. Change without regulatory effect repealing section and adopting new section filed 5–31–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 22).
27. Repealer and new section filed 4–4–2002; operative 4–4–2002. Submitted to OAL for printing only (Register 2002, No. 14).
28. Change without regulatory effect repealing section and adopting new section filed 5–5–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 19).
29. Change without regulatory effect repealing section and adopting new section filed 4–6–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 15).
30. Change without regulatory effect repealing and adopting new section filed 4–7–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 14).
31. Change without regulatory effect repealing and adopting new section filed 5–15–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 20).
32. Repealer and new section filed with OAL 4–18–2007; filed with Secretary of State 5–23–2007; operative on filing with OAL pursuant to Health and Safety Code section 50093(c). Submitted to OAL for printing only pursuant to Health and Safety Code section 50093(c) (Register 2007, No. 21).
33. Repealer and new section filed with OAL 3–11–2008; filed with Secretary of State 4–1–2008; operative on filing with OAL pursuant to Health and Safety Code section 50093(c) (Register 2008, No. 14).

Subchapter 2.5. Applicant Verification Requirements

Article 1. General Provisions

§ 6935. Authority and Purpose.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104–193, 8 U.S.C. § 1621), hereinafter referred to as "PRAWORA," among other things, generally requires that receipt of public benefits be limited to U.S. citizens, nationals and qualified aliens. The purpose of this subchapter is to implement this requirement by establishing procedures for the verification of citizenship or qualified alien status of beneficiaries or prospective beneficiaries of the loan and grant programs administered by the Department.

HISTORY

1. New subchapter 2.5 (articles 1–3), article 1 (sections 6935–6935.6) and section filed 9–9–98; operative 9–9–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).

§ 6935.2. Application.

(a) The provisions of this subchapter shall apply to the following state–funded loan and grant programs administered by the Department:

(1) Farmworker Housing Grant Program (commencing with section 7200 of this Title);

(2) Deferred–Payment Rehabilitation Loans (commencing with section 7400 of this Title);

(3) Special User Housing Rehabilitation Program (commencing with section 7450 of this Title);

(4) Office of Migrant Services (commencing with section 7600 of this Title);

(5) California Housing Rehabilitation Program (commencing with section 7670 of this Title);

(6) Rental Housing Construction Program (commencing with section 7800 of this Title);

(7) Homeownership Assistance Program (commencing with section 7900 of this Title);

(8) Emergency Housing and Assistance Program (rental assistance only) (commencing with section 7964 of this Title);

(9) Mobile Home Park Assistance Program (commencing with section 8000 of this Title);

(10) California Housing Rehabilitation Program for Owner–Occupied Housing (commencing with section 8040 of this Title);

[The next page is 289.]

(11) Rental Housing Construction Program—Proposition 84 Bond (commencing with section 8075 of this Title);

(12) Family Housing Demonstration Program (commencing with section 8110 of this Title);

NOTE: Authority cited: Sections 50402, 50406, 50406(h) and (n), 50662, 50668.5(g), 50697(d), 50710, 50771.1, 50786(a), 50801.5, 50806.5, 50884, 50895 and 50896.3(b), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 411 and 431, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193 (PRAWORA)), Sections 212(d)(5) of the INA, 8 U.S.C. §§ 1621, 1622, 1641 and 1642.

HISTORY

1. New section filed 9–9–98; operative 9–9–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).

§ 6935.4. Definitions.

The following definitions shall apply to this subchapter:

"Alien" means any person not a citizen or national of the United States.

"Applicant" means any person applying to the Department for a public benefit, or any person seeking to renew or extend an existing public benefit pursuant to any re–certification process.

"Assisted rental unit" means a unit designated as an assisted unit in a regulatory agreement or the management plan for a construction or rehabilitation multifamily project financed, in whole or in part through funding provided by a program identified in Section 6935.2.

"Department" means the California Department of Housing and Community Development.

"Head of Household" means the adult member of the household who is the head of the household for the purposes of determining income eligibility or rent.

"INA" means the Immigration and Nationality Act (8 U.S.C. § 1101 *et seq.*).

"INS" means the United States Immigration and Naturalization Service.

"Nonimmigrant" means the same as in Section 101(a)(15) of the INA (8 U.S.C. § 1101(a)(15)).

"Nonprofit charitable organization", for purposes of this subchapter, shall mean an organization as specified in Section 432 of PRAWORA, as amended by Public Law No. 104–208 (8 U.S.C. § 1642(d)) which shall include, but not necessarily be limited to, organizations which have received a tax exemption from the Internal Revenue Service pursuant to Internal Revenue Code section 501(c)(3). "Nonprofit charitable organization" does not include general or limited partnerships which have a nonprofit charitable organization as a general partner unless the partnership entity itself is both non–profit and charitable. An organization is "nonprofit" if it is organized and operated for purposes other than making gains or profits for the organization, its members or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders. An organization is "charitable" if it is organized and operated for charitable purposes. The term "charitable" includes organizations dedicated to relief of the poor and distressed or the underprivileged, as well as religiously–affiliated organizations and educational organizations.

"PRAWORA" means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Pub. L. No. 104–193, 8 U.S.C. § 1621).

"Public Benefit" means any of the following:

(1) Any kind of rental assistance provided to a household through any program listed in section 6935.2, including but not limited to subsidized rents; tenant–based rental assistance; and rent vouchers;

(2) The right to occupy an assisted unit;

(3) Any loan or grant provided to a homeowner or shareholder in a cooperative through any program listed in section 6935.2.

"Qualified Alien" means an alien who, at the time he or she applies for, receives, or attempts to receive a public benefit, is, under Section 431(b) of the PRAWORA (8 U.S.C. § 1641(b)), any of the following:

(1) An alien lawfully admitted for permanent residence under the INA (8 U.S.C. § 1101 *et seq.*);

(2) An alien who is granted asylum under Section 208 of the INA (8 U.S.C. § 1158);

(3) A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C. § 1157);

(4) An alien who is paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)) for a period of at least one year;

(5) An alien whose deportation is being withheld under Section 243(h) of the INA (8 U.S.C. § 1253(h)) as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or Section 241(b)(3) of such Act (8 U.S.C. § 1251(b)(3)) (as amended by Section 305(a) of division C of Public Law 104–208);

(6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980. (See editorial note under 8 U.S.C. § 1101, "Effective Date of 1980 Amendment."); or

(7) An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (8 U.S.C. § 1522 note));

(8) An alien who, under Section 431(c)(1) of the PRAWORA (8 U.S.C. § 1641(c)(1)), meets all of the conditions of subparagraphs (A), (B), (C), and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty;

(B) In the opinion of the department there is substantial connection between such battery and cruelty and the need for the benefits to be provided. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

(i) The benefits are needed to enable the alien to become self–sufficient following separation from the abuser.

(ii) The benefits are needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.

(iii) The benefits are needed due to a loss of financial support resulting from the alien's separation from the abuser.

(iv) The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.

(v) The benefits are needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

(vi) The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

(vii) The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

(viii) The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.

(ix) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien had when living with the abuser.

(C) The alien has been approved or has a petition pending which sets forth a prima facie case for:

(i) status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)(ii), (iii) or (iv));

(iv) classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 154(a)(1)(B)(ii) or (iii));

(v) suspension of deportation and adjustment of status pursuant to Section 244(a)(3) of the INA (8 U.S.C. § 1254)(a)(3)), as in effect prior to April 1, 1997, [Pub.L. 104–208, se. 501 (effective Sept. 30, 1996 pursuant to sec. 304); Pub.L. 105–33, sec. 81 (effective pursuant to sec. 5582)] (codified as "cancellation of removal under section 240A of such Act [8 U.S.C. § 1229b] as in effect prior to April 1, 1997);

(vi) status as a spouse or child of a United States citizen pursuant to clause (I) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)) or classification pursuant to clause (I) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 1154(a)(1)(B));

(vii) cancellation of removal pursuant to Section 240(b)(2)(A) of the INA (8 U.S.C. § 1229(b)(2)).

(D) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(9) An alien who meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below:

(A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty.

(B) The alien did not actively participate in such battery or cruelty;

(C) In the opinion of the department, there is a substantial connection between such battery or cruelty and the need for the benefits to be provided. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

(i) The benefits are needed to enable the alien's child to become self–sufficient following separation from the abuser.

(ii) The benefits are needed to enable the alien's child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien's child from the abuser.

(iii) The benefits are needed due to a loss of financial support resulting from the alien child's separation from the abuser.

(iv) The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien's child to lose his or her job or to earn less or to require the alien's child to leave his or her job for safety reasons.

(v) The benefits are needed because the alien's child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

(vi) The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's child's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

(vii) The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

(viii) The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or to care for any resulting children.

(ix) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.

(D) The alien meets the requirements of subsection (c)(8)(C) above;

(E) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(10) An alien child who meets all of the conditions of subparagraphs (A), (B), and (C) below:

(A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

(B) In the opinion of the department there is a substantial connection between such battery or cruelty and the need for the benefits to be provided. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

(i) The benefits are needed to enable the alien child's parent to become self–sufficient following the separation from the abuser.

(ii) The benefits are needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

(iii) The benefits are needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.

(iv) The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.

(v) The benefits are needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

(vi) The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

(vii) The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

(viii) The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.

(ix) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

(c) The alien child meets the requirements of subsection (c)(8)(C) above.

"Regulatory agreement" means an agreement governing the maintenance, use and occupancy of specific units, or a specified number of units, in a rental housing development and which has been or will be entered into between a sponsor and the department as a condition of receiving assistance from any of the programs listed in section 6935.2 above.

"Rental Assistance" means any form of cash, voucher, or promise to provide the payment of rent, in whole or in part, to or on behalf of an individual, household, or family eligibility unit.

"Sponsor" or "Project Sponsor" means the person or entity, including governmental entities, which has been funded by the Department in order to facilitate a public benefit to individuals or households. Depending on the program, the project sponsor may be a grantee of, or a borrower of, funds administered by the Department. "Sponsor" or "Project Sponsor" also means the person or entity designated in a currently effective regulatory agreement as the "borrower". For the purposes of this Subchapter the term "sponsor" does not include a nonprofit charitable organization, as defined above. (Section 432 of the PRAWORA, as amended by Pub. L.

104–208 (8 U.S.C. § 1642(d)), exempts nonprofit charitable organizations from the obligation to verify eligibility.)

"Unqualified Alien" means an alien who is not a qualified alien.

NOTE: Authority cited: Sections 50402, 50406, 50406(h) and (n), 50662, 50668.5(g), 50697(d), 50710, 50771.1, 50786(a), 50801.5, 50806.5, 50884, 50895 and 50896.3(b), Health and Safety Code; and 24 CFR 570.489(b). Reference: (Pub. L. 104–193 (PRAWORA)), 8 U.S.C. §§ 1601, 1621, 1641(b) and 1642 (62 Fed.Reg. 61345 et. Seq. (Nov. 17, 1997).)

HISTORY

1. New section filed 9–9–98; operative 9–9–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).

§ 6935.6. Nondiscrimination.

All eligibility requirements contained in this subchapter shall be applied without regard to the race, creed, color, gender, religion, age, disability, familial status or national origin of the individual applying for the public benefit.

NOTE: Authority cited: Sections 50806.5, 50884, 50895 and 50896.3(b), Health and Safety Code; and 24 CFR 570.489(b). Reference: (Pub. L. 104–193 (PRAWORA)); and 8 U.S.C. §§ 1621, 1622, 1641 and 1642(d).

HISTORY

1. New section filed 9–9–98; operative 9–9–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).

Article 2. Eligibility for Benefits

§ 6937. Eligibility for Public Benefits.

To be eligible to receive a public benefit under the department's programs, a person must be a United States citizen or national, or, pursuant to Section 411 of the PRAWORA, one of the following types of aliens: (a) a qualified alien; (b) a nonimmigrant alien under the INA; or (c) an alien who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)) for less than one year.

NOTE: Authority cited: Sections 50402, 50406, 50406(h) and (n), 50662, 50668.5(g), 50697(d), 50710, 50771.1, 50786(a), 50801.5, 50806.5, 50884, 50895 and 50896.3(b), Health and Safety Code; and 24 CFR 570.489(b). Reference: (Pub. L. 104–193 (PRAWORA)); and 8 U.S.C. §§ 1621, 1622, 1641 and 1642.

HISTORY

1. New article 2 (sections 6937–6937.4) and section filed 9–9–98; operative 9–9–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).

§ 6937.2. Eligibility of Households.

(a) To be eligible to receive any form of rental assistance or assisted rental housing unit;

(1) In the case of a new tenancy, each adult member of a household must be eligible to receive a public benefit.

(2) In the case of a tenancy which is in existence as of the effective date of these regulations, either the head of the household or his or her spouse must be eligible to receive a public benefit, provided that the household does not include any person who is ineligible to receive the public benefit other than the head of household or spouse, the parents or grandparents of the head of household or spouse, or the children of the head of household or spouse.

(b) To be eligible to receive any form of home ownership assistance, each person whose name appears on the title for the home or, in the case of cooperatives, the share certificate, must be eligible to receive a public benefit.

NOTE: Authority cited: Sections 50402, 50406, 50406(h) and (n), 50662, 50668.5(g), 50697(d), 50710, 50771.1, 50786(a), 50801.5, 50806.5, 50884, 50895 and 50896.3(b), Health and Safety Code; and 24 CFR 570.489(b). Reference: (Pub. L. 104–193 (PRAWORA)); and 8 U.S.C. §§ 1621, 1622, 1641 and 1642.

HISTORY

1. New section filed 9–9–98; operative 9–9–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).

§ 6937.4. Time at Which Eligibility Will Be Determined.

(a) Rental Assistance or Assisted Units

(1) Initial eligibility of an applicant under a program which provides rental assistance or an applicant for an assisted unit in a rental housing development shall be determined as part of the initial determination of the applicant's overall eligibility for the individual program. If an applicant fails to establish eligibility pursuant to subsection (b) of section 6939.2, the rental assistance or access to an assisted unit shall be denied.

(2) Continuing eligibility of an existing household in a rental housing development shall be determined at the time of the household's next eligibility re–certification pursuant to the requirements of the regulatory agreement. If an existing household fails to demonstrate eligibility pursuant to this subchapter, the household shall be given a written notice that the tenant's assistance will be withdrawn 30 days thereafter, either by increasing the unit's rent to a non–assisted rent level (subject to any applicable rent restrictions imposed by existing regulatory agreements by and between the project sponsor and any other governmental entity), or in the case of a direct rental subsidy, by terminating that subsidy. If the household occupies an assisted unit, the notice shall also inform the household that the tenancy will be terminated in 6 months unless, within that period, a vacant non–assisted unit is re–designated as a replacement assisted unit. In that case, the household may be permitted to remain in the formerly–assisted unit at a non–assisted rent.

(3) Eligibility of a household in a rental housing development need only be verified once during the time the household resides in that development.

(b) Home Owner Assistance

(1) Initial eligibility of an applicant for homeowner assistance shall be determined during loan origination and must be completed prior to the closing of the loan or grant. If an owner fails to establish eligibility pursuant to this subchapter, the assistance shall be denied.

(2) For all homeowners or shareholders in cooperatives who have received a loan or grant prior to the effective date of these regulations, and for owners or shareholders who have received an initial determination of eligibility under subsection (1), continuing eligibility shall be established prior to the Department's approval of any change concerning the loan or grant, or the underlying property which, pursuant to program regulations or the loan or grant documents, requires the Department's prior approval (e.g., loan extension, assumption, assignment, or subordination, or transfer, or encumbrance of the property). If the homeowner or shareholder fails to establish eligibility, the Department shall withhold its approval of the change. Under no circumstances may the assistance provided to a homeowner be transferred to an unqualified alien, nor may an unqualified alien be added to the title in a manner which would allow that unqualified alien to be a beneficiary of the program.

(c) All determinations of ineligibility shall be in writing, and shall include the reasons for the determination and a summary of the applicable appeal procedures set forth in section 6939.6.

NOTE: Authority cited: Sections 50402, 50406, 50406(h) and (n), 50662, 50668.5(g), 50697(d), 50710, 50771.1, 50786(a), 50801.5, 50806.5, 50884, 50895 and 50896.3(b), Health and Safety Code; and 24 CFR 570.489(b). Reference: (Pub. L. 104–193 (PRAWORA)); and 8 U.S.C. §§ 1621, 1622, 1641 and 1642.

HISTORY

1. New section filed 9–9–98; operative 9–9–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).

Article 3. Procedures for Determining and Reporting Eligibility

§ 6939. Who Must Perform Verifications.

(a) Each sponsor shall perform eligibility verifications as required by this subchapter. (Section 432 of the PRAWORA, as amended by Pub. L. 104–208 (8 U.S.C. § 1642(d)), does not require nonprofit charitable organizations to verify eligibility.) The failure to perform eligibility verifications may, in the Department's discretion, be considered a default under the loan or grant to the sponsor. In those situations in which an applicant for a public benefit is seeking a public benefit directly from the Department, the Department shall perform the verification of eligibility.

(b) Each sponsor, including local governmental entities, shall perform the tenant verifications required pursuant to this section as part of its ongoing project management responsibilities. Each such project sponsor, or the department where it has performed the verification of eligibility, shall maintain the appropriate documentation as part of each public beneficiary's program file. In the case of governmental sponsors, where an applicant's eligibility for a public benefit has already been verified as part of an eligibility process for another federal, state, or local program subject to PRAWORA, that verification shall be deemed adequate for purposes of this subchapter and documentation of the verification shall be maintained in the public beneficiary's file.

(c) Any sponsor that verifies eligibility may consider the costs involved in performing the verifications to be a project expense; and may charge applicants, but not existing tenants, a reasonable fee for determining eligibility.

(d) The Department shall charge a fee not to exceed $13, for each verification it performs.

(e) The Department shall not be liable for any action, delay, or failure of the INS in conducting the Systematic Alien Verification for Entitlements (SAVE) system or other verification process.

NOTE: Authority cited: Sections 50402, 50406, 50406(f), (h) and (n), 50662, 50668.5(g), 50697(d), 50710, 50771.1, 50786(a), 50801.5, 50806.5, 50884, 50895 and 50896.3(b), Health and Safety Code; and 24 CFR 570.489(b). Reference: (Pub. L. 104-193 (PRAWORA)); and 8 U.S.C. §§ 1621, 1622, 1625, 1641 and 1642.

HISTORY

1. New article 3 (sections 6939-6939.4) and section filed 9-9-98; operative 9-9-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).

§ 6939.2. Method for Determining Eligibility.

(a) For any project receiving funds and funds from any of the programs listed in section 6935.2, and which project is also subject to federal eligibility verification procedures (such as the Section 214 requirements for Public Housing and Section 8), verification of eligibility shall be determined using federal procedures or the procedures promulgated by the federal funding source to implement the requirements of PRAWORA, if such federal procedures are in effect. In the event there are no applicable federal regulations in effect, the procedures specified in this subchapter shall apply to joint state-federally-funded projects until such time as federal regulations become effective. Notwithstanding anything to the contrary in this subsection, unless the federal regulations have preempted the field of verification for federally-funded projects or programs, or unless federal regulations mandate a shorter period, the 6-month waiting period prior to termination of a tenancy set forth in section 6937.4(a)(2) shall apply to projects funded under any program listed in section 6935.2.

(b) For purposes of establishing eligibility for the programs listed in section 6935.2 and which are not subject to federal PRAWORA eligibility verification procedures, all of the following procedures shall be followed:

(1) To be considered for eligibility, the applicant shall declare his or her citizenship, alienage, and/or immigration status as a United States citizen or national, a qualified alien, a nonimmigrant alien, or a parolee to the United States by completing and signing the "Statement of Citizenship, Alienage, and Immigration Status for State Public Benefits", Form HCD-Benefit Status Form 1, (2/98) version which is hereby incorporated into these regulations by reference. This form is provided by the department.

(2) With the exception of the eligibility determination of an applicant for occupancy in an assisted rental unit who is a United States citizen or national, the applicant must present documents of a type acceptable to the INS, as set forth in List A of HCD Benefit Status Form 1 (2/98) in the case of an applicant who is a citizen or national, or List B of HCD Form 1 in the case of an applicant who is an alien, which serve as reasonable evidence of the applicant's declared status at the time of application. A fee receipt from the INS for replacement of a lost, stolen, or unreadable INS document is reasonable evidence of the applicant's declared status. At the time of application, an applicant for occupancy in an assisted rental unit who is a United States citizen or national shall not be required to provide any additional supporting documentation of his or her declared status beyond a completed and executed HCD Benefit Status Form 1 (2/98). However, if such an applicant becomes a tenant, he/she shall be required to provide the supporting documentation described in List A of HCD Benefit Form 1 (2/98) upon his/her first eligibility re-certification pursuant to the requirements of the regulatory agreement.

(3) If the documents presented do not on their face appear to be genuine or to relate to the individual presenting them, the sponsor shall contact the government entity that originally issued the documents for verification. In the case of naturalized citizens, derivative citizens presenting certificates of citizenship, and aliens, the INS is the appropriate government entity to contact for verification. The sponsor shall request verification from the INS by filing INS Form G-845 or its successor, with copies of the pertinent documents provided by the applicant, with the local INS office. If an applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant shall be referred to the local INS office to obtain documentation.

(i) Once an applicant for occupancy in a rental unit has provided the sponsor all information required by subsection (b) to establish the applicant's eligibility, the applicant shall be eligible for public benefits until and unless the sponsor or Department receives written confirmation from the INS that the applicant does not have a legal status which would make him or her eligible for a public benefit. Where an applicant has been provided rental assistance or occupancy in an assisted rental unit pending review by the applicable governmental entity, and it is later determined that he or she was ineligible to receive that public benefit, the benefit shall be terminated in accordance with the provisions of subsection 6937.4(a)(2).

(ii) Applicants seeking approvals related to homeownership loans or cooperative shares subject to subsection 6837.4(b), whose documents do not on their face appear to be genuine or to relate to the individual presenting them shall be denied the public benefit until the sponsor or Department receives confirmation of the applicant's eligibility from the issuing governmental entity.

(4) At the time of a continuing eligibility determination made pursuant to section 6937.4, subsection (a)(2) or (b)(2), the tenant, owner, or shareholder shall complete and execute a Form 1, and present documents specified in list A or B of HCD Benefit Status Form 1 (2/98) which serve as reasonable evidence of the tenant's, owner's, or shareholder's declared status.

(5) If the INS advises that the applicant has citizen status or has immigration status which makes him or her a qualified alien, a nonimmigrant or alien paroled for less than one year under section 212(d)(5) of the INA, the INS verification shall be accepted.

(6) If the INS advises that it cannot verify that the applicant is a citizen, a national, or a qualified alien, benefits shall be denied, or discontinued, as applicable, and the applicant notified of the denial or discontinuance and of his or her right to appeal the denial pursuant to Section 6939.6.

(c) Pursuant to Section 434 of the PRAWORA (8 U.S.C. § 1644), any of the following information submitted by an applicant as reasonable evidence of the applicant's declared status under subsection (b) shall be submitted to the INS for verification:

(1) The document presented indicates immigration status but does not include an alien registration or alien admission number.

(2) The document is suspected to be counterfeit or to have been altered.

(3) The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.

(4) The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181 Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for public benefits.

(d) Pursuant to Section 434 of the PRAWORA (8 U.S.C. § 1644), where the Department reasonably believes that an alien is unlawfully in the State based on the failure of the alien to provide reasonable evidence of the alien's declared status, after an opportunity to do so, said alien shall be reported to the Immigration and Naturalization Service.

NOTE: Authority cited: Sections 50402, 50406, 50406(h) and (n), 50662, 50668.5(g), 50697(d), 50710, 50771.1, 50786(a), 50801.5, 50806.5, 50884, 50895 and 50896.3(b), Health and Safety Code; and 24 CFR 570.489(b). Reference: (Pub. L. 104-193 (PRAWORA)); and 8 U.S.C. §§ 1621, 1622, 1641, 1642 and 1644; (62 Fed.Reg. 61345 et. seq. (Nov. 17, 1997).)

HISTORY

1. New section filed 9-9-98; operative 9-9-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).

§ 6939.4. Appeal Procedures.

(a) Any person determined to be ineligible to receive benefits may appeal such determination as provided by this section.

(b) To be considered, an appeal: (1) must be submitted in writing to the entity (department, sponsor, or local government) that performed the eligibility verification; (2) must be either hand delivered or postmarked within 10 calendar days from the date of the written determination of ineligibility; and (3) must state the reason(s) the person believes the determination was in error.

(c) In the case of a sponsor that has an appeal or grievance procedure that has been approved by the department as part of the sponsor's management plan, the sponsor may use that procedure to process eligibility appeals, or it may use the procedure set forth in subsection (d) of this section.

(d) The Department and sponsors that do not have a department-approved appeal or grievance procedure shall follow the grievance procedures as follows:

(1) Upon receipt of an appeal, the verifying entity shall conduct an administrative review of the decision being appealed, including all documentary information submitted by the appellant in support of his or her appeal. Within 15 calendar days of receipt of an appeal, the administrative review shall be completed and the appellant notified in writing either that the appellant has been found eligible to receive benefits, or that the appellant has been found ineligible to receive benefits and the date, time and location at which an informal hearing will take place. The informal hearing may be by telephone or in person, in which case the hearing will be held in the general geographic area where the benefit would have been conferred.

(2) In the case of the Department, the manager of the affected program shall appoint a person other than the person who performed the initial verification to serve as an Informal Review Officer.

(3) In the case of a sponsor, the sponsor shall designate an employee of the sponsor other than the employee who performed the initial verification to serve as an Informal Review Officer. The program providing the benefit applied for may but is not required to be represented at the informal hearing.

(4) The Informal Review Officer may determine the relevance of the information or testimony, may limit the length of presentations, and may eject threatening or abusive persons from the informal hearing. The Informal Review Officer may request additional evidence, proof, or documentation from the appellant at the time of the informal hearing, or thereafter, and shall set a time after which no additional information will be accepted.

(5) The authority of the Informal Review Officer shall be limited to determinations of eligibility pursuant to this subchapter and he or she shall have no authority to overrule any decision or conclusion of the INS. Pending the Informal Review Officer's decision, any discretionary action in regards to eligibility for public benefits shall be stayed. If, during the appeal process, the appellant is found to be ineligible to receive benefits under the program applied under for reasons other than those set forth in this subchapter, the appeal shall be dismissed.

(6) The Informal Review Officer shall render a decision in writing within 15 calendar working days after the informal hearing and this will be a final administrative decision.

(7) The informal hearing shall be recorded, but only transcribed where the verifying entity deems it necessary. Tapes shall be maintained for one year after a decision is reached.

NOTE: Authority cited: Sections 50402, 50406, 50406(h) and (n), 50662, 50668.5(g), 50697(d), 50710, 50771.1, 50786(a), 50801.5, 50806.5, 50884, 50895 and 50896.3(b), Health and Safety Code; and 24 CFR 570.489(b). Reference: (Pub. L. 104-193 (PRAWORA)); and 8 U.S.C. §§ 1621, 1622, 1641 and 1642.

HISTORY

1. New section filed 9-9-98; operative 9-9-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).

Subchapter 3. California Environmental Quality Act

Article 1. General Provisions

§ 6940. Authority.

The guidelines adopted herein implement the requirements of the California Environmental Quality Act of 1970 (CEQA), Public Resources Code Section 21000 et seq., and the State EIR Guidelines issued by the Resources Agency, Title 14 of the California Administrative Code, Division 6, Chapter 3.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21082, Public Resources Code.

HISTORY

1. New Subchapter 3, Articles 1-7 (Sections 6940-6999, not consecutive) filed 7-11-80; effective thirtieth day thereafter (Register 80, No. 28).
2. Amendment of NOTE filed 5-5-82; designated effective 6-2-82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6941. Purpose.

The basic purpose of these guidelines is to carry out the intent of the Legislature that the Department, in regulating activities of private individuals, corporations, and public agencies, shall give major consideration to preventing environmental damage, while providing a decent house and a satisfying living environment for every Californian.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21082, Public Resources Code.

HISTORY

1. Amendment filed 5-5-82; designated effective 6-2-82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6942. Application.

These Guidelines apply to activities undertaken directly by the department, activities financed by the department, and private activities which require departmental approval.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21080, Public Resources Code.

HISTORY

1. Amendment filed 5-5-82; designated effective 6-2-82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

Article 2. Definitions

§ 6950. Definitions.

For purposes of these regulations, the following definitions shall apply:

"Approval" means the decision by the department which commits the department to a definite course of action in regard to a project. With respect to activities to be carried out by other agencies or persons, approval occurs when the department contracts or commits to issue a grant, loan, permit, certificate or other entitlement for use of the project.

"Lead Agency" means the public agency which has the principal responsibility for carrying out or approving a project. If the project is to be

carried out by a nongovernmental person, the Lead Agency shall be the public agency with the greatest responsibility for supervising or approving the project as a whole. Where the department is Lead Agency, it will prepare the environmental documents for the project, either directly or by contract, except as otherwise provided by department regulations. In the event that the designation of Lead Agency is in dispute, the department and other public agencies should consult with each other to determine who is Lead Agency. Any disputes with another department within the Business and Transportation Agency shall be resolved by the Secretary. If the department cannot agree on Lead Agency with any other public agency, the State Office of Planning and Research will be the final arbiter to resolve the designation of Lead Agency.

"Ministerial Projects" includes activities defined as projects which are undertaken or approved by a decision which an agent of the department makes upon a given state of facts in a prescribed manner pursuant to a legal mandate. A ministerial decision involves only the use of fixed standards or objective measurements without personal judgment.

The following definitions shall have the same meaning as defined in Title 14, California Administrative Code, Chapter 3, Article 4, Sections 15020–15043: "Categorical exemption," "Emergency," "Environment," "Environmental documents," "Draft EIR," "Final EIR," "Environmental Impact Statement (EIS)," "Initial Study (IS)," "Negative Declaration (ND)," "Notice of Determination," "Notice of Exemption," "Notice of Preparation," "Project," "Responsible Agency," and "Significant effect on the environment."

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Sections 15020–15043.

HISTORY

1. Amendment filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).
2. Editorial correction filed 10–19–82 (Register 82, No. 43).

Article 3. Exempt Activities

§ 6960. General.

CEQA either does not apply to the following activities or they are exempt from CEQA and do not require an Initial Study, Negative Declaration or EIR.

(a) Activities which are not projects. See definition of "project."

(b) Projects with no significant environmental effect, i.e., where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21080, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6961. Statutory Exemptions.

The following projects are statutorily exempt from CEQA:

(a) Emergency Projects. A Notice of Exemption shall be filed for the following exempt activities:

(1) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Specific actions necessary to prevent or mitigate an emergency.

(b) Feasibility and Planning Studies. Feasibility or planning studies for possible future actions which have not been approved, adopted, or funded. However, such studies must report on the possible environmental effects of the proposed action should it be taken, including consideration of less environmentally damaging alternatives.

(c) Ministerial Projects.

(1) Ministerial projects are, in general, those entitled to approval upon a simple determination of conformance with applicable statutes, ordinances, or regulations. With these projects the agency must act upon the given facts without regard to any judgment or opinion concerning the propriety or wisdom of the act.

(2) In the absence of any discretionary provision contained in the relevant local ordinance, it shall be presumed that the following actions are ministerial:

(A) Issuance of building permits.

(B) Issuance of business licenses.

(C) Approval of final subdivision maps.

(D) Approval of individual utility service connections and disconnections.

(3) Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21080, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6962. Categorical Exemptions.

The Guidelines establish classes of projects which have been determined not to have a significant effect on the environment and are therefore categorically exempt. Provided below are only those exempt classes from Article 8 of the State EIR Guidelines which might be relevant to departmental activities. All class exemptions are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. Classes 3, 4, 5, 6, and 11 are not exempt if the project may impact on an environmental resource of hazardous or critical concern which is designated, precisely mapped and officially adopted pursuant to law by federal, state or local agencies. (Areas of concern include critical air basins and coastal zones.) A categorical exemption shall not be used where there is a reasonable possibility that the activity will have a significant effect due to unusual circumstances.

(a) Class 1: Existing Facilities. Class 1 consists of the operation, repair, maintenance or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:

(1) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;

(2) Electrical, gas, sewerage, or other public utility facilities;

(3) Highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities;

(4) Restoration or rehabilitation of deteriorated or damaged structures, facilities or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide or flood;

(5) Additions to existing structures provided that the addition will not result in an increase of more than:

(A) 50 percent of the floor area of the structures before the addition of 2,500 square feet, whichever is less; or

(B) 10,000 square feet if:

1. The project is in an area where all public services and facilities are available to allow for maximum development permissible in the general plan and

2. The area in which the project is located is not environmentally sensitive.

(6) Addition of safety or health protection devices for use during construction of, or in conjunction with, existing structures, facilities or mechanical equipment, or topographical features.

(7) Division of existing multiple family rental units into condominiums or stock cooperatives;

(8) Unless the structures are of historical, archaeological or architectural significance, the demolition and removal of the following individual small structures:

(A) Single family residences not in conjunction with the demolition of two or more units;

(B) Motels, apartments, and duplexes designed for not more than four dwelling units if not in conjunction with the demolition of two or more such structures;

(C) Stores, offices, and restaurants if designed for an occupancy load of 20 persons or less, if not in conjunction with the demolition of two or more such structures;

(D) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

(9) Conversion of a single family residence to office use.

(b) Class 2: Replacement or Reconstruction. Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including the replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

(c) Class 3: New Construction or Conversion of Small Structures. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable within a two year period. Examples of this exemption include but are not limited to:

(1) Single-family residences not in conjunction with the building of two or more such units. In urbanized areas, up to three single-family residences may be constructed under this exemption.

(2) Apartments, duplexes and similar structures, with not more than four dwelling units if not in conjunction with the building of two or more such structures. In urbanized areas, the exemption applies to single apartments, duplexes and similar small structures designed for not more than six dwelling units if not constructed in conjunction with the building of two or more such structures.

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(3) Stores, motels, offices, restaurants and similar small commercial structures not involving the use of significant amounts of hazardous substances, if designed for an occupant load of 30 persons or less, if not constructed in conjunction with the building of two or more such structures. In urbanized areas, the exemption also applies to commercial buildings on sites zoned for such use, if designed for an occupant load of 30 persons or less, if not constructed in conjunction with the building of 4 or more such structures and if not involving the use of significant amount of hazardous substances.

(4) Water main, sewage, electrical, gas and other utility extensions of reasonable length to serve such construction;

(5) Accessory (appurtenant) structures including garages, carports, patios, swimming pools and fences.

(d) Class 5: Minor Alterations in Land Use Limitations. Class 5 consists of minor alterations in land use limitations in areas with less than a 20% slope, which do not result in any changes in land use or density, including but not limited to:

(1) Minor lot line adjustments, side yard and set back variances not resulting in the creation of any new parcel;

(2) Issuance of minor encroachment permits;

(3) Reversion to acreage in accordance with the Subdivision Map Act.

(e) Class 6: Information Collection. Class 6 consists of basic data collection, research, experimental management and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be for strictly information gathering purposes or as part of a study leading to an action which a public agency has not yet approved, adopted or funded.

(f) Class 9: Inspections. Class 9 consists of activities limited entirely to inspection, to check for performance of an operation, or quality, health or safety of a project.

(g) Class 12: Surplus Government Property Sales. Class 12 consists of sales of surplus government property except for parcels of land located in an area of statewide interest or potential area of critical concern as identified in the Governor's Environmental Goals and Policy Report prepared pursuant to Government Code Sections 65041 et seq. However, if the surplus property to be sold is located in those areas identified in the Governor's Environmental Goals and Policy Report, its sales is exempt if:

(1) The property does not have significant value for wildlife habitat or other environmental purposes; and

(2) Any of the following conditions exist:

(A) The property is of such size or shape that it is incapable of independent development or use; or

(B) The property to be sold would qualify for an exemption under any other class or categorical exemption in the State EIR Guidelines; or

(C) The use of the property and adjacent property has not changed since the time of purchase by the public agency.

(h) Class 21: Enforcement Actions by Regulatory Agencies. Class 21 consists of actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted or prescribed by the regulatory agency. Such actions include, but are not limited to, the following:

(1) The direct referral of a violation of a lease, permit, license, certificate, or entitlement for use or of a general rule, standard, or objective to the Attorney General, District Attorney, or City Attorney as appropriate, for judicial enforcement;

(2) The adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.

(i) Class 26: Acquisition of Housing for Housing Assistance Programs. Class 26 consists of actions by a redevelopment agency, housing authority, or other public agency to implement an adopted Housing Assistance Plan by acquiring an interest in housing units. The housing units may be either in existence or possessing all required permits for construction when the agency makes its final decision to acquire the units.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21080, Public Resources Code.

HISTORY

1. Amendment of subsection (f) filed 5-5-82; designated effective 6-2-82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

Article 4. Procedures for Compliance with CEQA

§ 6970. CEQA Responsibilities.

The Director of the department shall appoint a CEQA officer to be responsible for all of the functions in this article, except as otherwise noted. The person or committee approving any departmental activity which is a project under CEQA shall review and consider the environmental documents and make appropriate findings as specified in Section 6971 prior to approval of the project.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21100, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 5-5-82; designated effective 6-2-82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6971. Procedure Where the Department Is Lead Agency.

(a) General. The department is the Lead Agency if it has the principal responsibility for carrying out or approving a project. (See Section 6950 for definition.) When acting as Lead Agency, the department shall incorporate environmental considerations at the earliest feasible stage in project planning. If the Department is acting as Lead Agency for a project for which it will issue a lease, license, or permit, it must determine whether the project will need an EIR or ND within 45 days after accepting application as complete; it must adopt an ND not more 105 days after such acceptance and an EIR in not more than one year. These time periods may be waived when the project is also subject to the requirements of NEPA and the conditions of Section 15054.2(b)(4) of the state EIR Guidelines are met.

(b) Initial Steps. The Department shall:

(1) Determine whether the activity is a project and if CEQA applies to the project. If it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the department may proceed without consideration of environmental requirements.

(2) Determine if the project is exempt as: a) an emergency project, b) a ministerial project, or c) a categorical exemption. If it is exempt, file a Notice of Exemption with the Secretary of Resources (Appendix C).

(3) Determine if project will clearly have a significant effect on the environment (See Section 6990). If so, no Initial Study is necessary; rather, proceed to EIR.

(c) Initial Study. In all other instances, the Department shall prepare an Initial Study (IS). (See Section 6995). The Department shall:

(1) Consult with all responsible agencies to determine whether a ND or an EIR is required. This may be done quickly and informally.

(2) If the IS demonstrates that the project may have a significant effect on the environment, or if mandatory findings of significance apply, proceed to an EIR. (See Section 6990 for "Determining Significant Effect" and Section 6991 for "Mandatory Findings of Significance.")

(3) If the IS demonstrates that there will be no significant effect on the environment, or if project has been or will be modified to eliminate significant effects, proceed to preparation of Negative Declaration.

(d) Negative Declaration. The Department shall:

(1) Consult informally with responsible agencies to insure that their concerns will be reflected in the ND. This may occur during the public review period, subsection (3) below.

(2) Prepare ND (see Section 6996 for contents).

(3) Provide for public review of Negative Declaration, including the following:

(A) Provide public notice of preparation of ND, including notice to all organizations and individuals who have previously requested notice and publication in a newspaper of general circulation in the area affected by the project;

(B) Keep copies available in the Department for public inspection;

(C) Hold public hearings if additional public input is desired. (Follow departmental notice and hearing procedures.)

(4) Provide for state agency review by submission to State Clearinghouse; allow 30 days minimum review period.

(5) Consider the ND and any comments received prior to approving or disapproving the ND.

(6) Prepare notice of determination (see Section 6997) and file with the Secretary of Resources.

(e) Preparation of draft EIR. The Department shall:

(1) Send Notice of Preparation to Responsible Agencies by certified mail and to the State Clearinghouse and any federal agencies involved in funding or approving the project.

(2) Consult with Responsible Agencies, interested organizations and individuals, persons with special expertise, and relevant federal agencies prior to commencement of preparation of the draft EIR.

(3) Where a federal EIS will also be required, determine if joint EIR/EIS is appropriate.

(4) Prepare draft EIR or contract for its preparation (see Section 6998 for contents).

(5) After completion of draft EIR, send draft EIR to State Clearinghouse with cover form (Appendix A).

(6) Obtain comments on draft EIR from public agencies having jurisdiction by law and consult with persons having special expertise.

(7) Provide for public review of draft EIR, including the following:

(A) Provide Notice of Completion of draft EIR to all organizations and individuals who have previously requested it.

(B) Provide Notice of Completion of draft EIR to the public through publication in a newspaper of general circulation in the area affected by the project.

(C) Submit draft EIR to State Clearinghouse for distribution and to areawide clearinghouses, regional and local agencies.

(D) Make copies of draft EIR's available to appropriate public library systems.

(E) Hold public hearings if additional public input is desired. (Follow department notice and hearing procedures.)

(8) Provide for state agency review of draft EIR by submission to State Clearinghouse; allow 45 days review period.

(9) Evaluate comments received on draft EIR.

(f) Preparation of final EIR. The Department shall:

(1) Prepare final EIR or contract for its preparation (see Section 6998) and mitigate any significant environmental effects where feasible.

(2) Consider the significant environmental effects identified in the EIR and approve the project only if such effects have been reduced to an acceptable level.

(3) Prepare Findings for Significant Environmental Effects. (See Section 6993.)

(4) Prepare Statement of Overriding Considerations where environmental effects cannot be mitigated and the Department decides to proceed with project. (See Section 6994.)

(5) Certify that the EIR complies with CEQA and State EIR Guidelines and that the information contained in the EIR has been reviewed and considered prior to project approval.

(6) File Notice of Determination with the Secretary of Resources (Appendix B).

(7) File final EIR with the appropriate planning agency of any city and/or county which will be affected by the project.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21165, Public Resources Code.

HISTORY

1. Editorial renumbering of subsection (d) to (e), subsection (e) to (f) and subsection (e)(6) to (f)(7) filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6972. Assumption of Lead Agency Responsibilities.

The Department, acting as a Responsible Agency, must assume the responsibilities of Lead Agency when the following conditions occur: the Lead Agency fails to prepare an EIR, inadequately prepares an EIR without consulting the department, or a subsequent EIR is required and the statute of limitations for challenging the Lead Agency's action under CEQA has expired (see Section 15065.3 of State EIR Guidelines). The Department may charge and collect fees if it prepares an EIR or an ND for projects for which it is the Lead Agency but not the implementing agency.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21165, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6973. Procedure Where the Department Is a Responsible Agency.

(a) General. Where the Department is the responsible agency (see definition Section 6950), it must require any local agency that is the Lead Agency to prepare environmental documents and submit them with the request for project approval. The Department must ensure that the environmental documents that it uses in reviewing the project comply with CEQA. The Department shall encourage a Lead Agency to incorporate environmental considerations at the earliest feasible stage in project planning and remind it of its obligation to consult and respond to consultation prior to development of environmental documents. The Department shall explain its reasons for recommending whether an EIR or an ND should be prepared, including the identification of potential environmental effects.

(b) Procedure. The Department shall:

(1) Respond to a consultation request by the Lead Agency regarding whether to prepare a ND or an EIR.

(2) No later than 45 days after receiving a Notice of Preparation for an EIR, send a written reply by certified mail or another method that will provide a record of receipt, specifying the scope and content of environmental information germane to its responsibilities.

(3) Review and comment on draft EIR's and Negative Declarations for projects which it would later be asked to approve.

(4) In those instances in which it believes that the EIR or ND is inadequate and the Lead Agency does not concur with this assessment, the Department must take the issue to court within 30 days after Notice of Determination was filed, prepare a subsequent EIR (if permissible under Section 15067 of the State EIR Guidelines) or be deemed to waive objections to the document's adequacy.

(5) Consider environmental effect of the project as shown in EIR or ND prior to reaching a decision on project. The Department shall not approve a project as proposed if there is any feasible alternative or mitigation measure within its powers that would substantially lessen any significant effect the project would have on the environment.

(6) Prepare Findings for Significant Environmental Effects (see Section 6993).

(7) Prepare Statement of Overriding Considerations (Section 6984) where environmental effects cannot be mitigated and the Department decides to approve the project (see Section 6994).

(8) File a Notice of Determination with the Secretary of Resources for those projects which the Department determines to approve or carry out (Appendix B).

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21165, Public Resources Code.

HISTORY

1. New subsection (b)(8) filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6974. Procedure for Federal Projects.

General. When the Department officially comments on a proposed federal project which may have a significant effect on the environment, the comments shall include description of Environmental Impact (see Section 6998).

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21101, Public Resources Code.

History

1. Amendment of NOTE filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

Article 5. Application to Developmental Activities

§ 6980. Exemption for Financial Assistance.

(a) Except as provided in subsection (b), CEQA shall not apply to actions taken by the Department to provide financial assistance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. The Department shall be exempt from CEQA for activities relating to reviewing and acting upon applications and disbursing funds for such financial assistance for land banking and acquisition, predevelopment expenses, project design, housing construction costs, financing, and any other expenses related to the development and construction of such housing. This exemption applies only to actions taken by the Department of Housing and Community Development, and shall not relieve any other public agency, when applying for such financial assistance from the Department, from its responsibility to comply with the provisions of CEQA.

(b) The provisions of CEQA shall apply to actions taken by the Department to provide loans and grants pursuant to its programs if the project which is the subject of the application for financial assistance will not be subject to environmental review pursuant to CEQA by another public agency and if the project is not otherwise exempt from CEQA review by the Department. The Department shall become Lead Agency and take responsibility for preparation of environmental documents only when no other public agency must prepare such documents prior to construction of the housing.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21080.10(b), Public Resources Code.

History

1. Renumbering of Section 6980 to Section 6981 and new Section 6980 filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6981. Division of Research and Policy Development.

(a) The following activities are not projects:

(1) Study and evaluation of housing market conditions, the housing industry, public and private housing programs, etc.

(2) Training

(3) Technical assistance

(4) Public Information and service

(5) Review of activities, applications, etc., where HCD is not the funding agency

(6) Legislative analyses and proposals.

(b) The following activities are statutorily–exempt from CEQA:

(1) Feasibility and planning studies for possible future actions which have not been approved, adopted or funded. This includes the Statewide Housing Plan prior to adoption by the Legislature. Such studies should give consideration to environmental effects.

(c) The following activities are categorically exempt from CEQA:

(1) Data collection and research.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, Section 15050; and Sections 21065 and 21080, Public Resources Code.

History

1. Renumbering of Section 6981 to Section 6982 and renumbering of former Section 6980 to Section 6981 filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6982. Division of Community Affairs.

(a) The following activities are not projects:

(1) Program monitoring and evaluation,

(2) Training,

(3) Technical assistance, including loan packaging assistance,

(4) Inventory of surplus lands,

(5) The Low–Income Home Management Training Program,

(6) Housing Assistance for the Disabled and Elderly,

(7) The Rural/Land Purchase Program,

(8) California Housing Advisory Service,

(9) Loans under the Homeownership Assistance Program involving financial assistance to purchasers of shares in existing mobilehome cooperative units.

(b) The following activities are statutorily–exempt from CEQA:

(1) Loans and grants related to disasters and emergency assistance.

(2) Loans and grants for feasibility and planning studies for possible future actions that have not been approved, funded, or adopted. Such studies include grants and loans made through Division of Community Affairs programs including, e.g., (i) the Comprehensive Planning Assistance Grant Program, and (ii) feasibility studies for the repair or replacement of existing water and sewer facilities pursuant to the Remote Rural Development Program.

(3) Loans and grants for the construction of housing or neighborhood facilities in an urbanized area after considering an EIR previously prepared for a specific plan or a local coastal program if the requirements of Title 14, Section 15068.6 of the State CEQA Guidelines are met.

(c) The following activities are categorically exempt from CEQA:

(1) Loans and grants for rehabilitation of deteriorated or damaged housing, minor additions to existing housing and repair and minor alteration of existing infrastructure (Class 1) including, such activities funded under the Deferred Rehabilitation Loan Program, Demonstration Housing Program, Indian Assistance Program, Remote Rural Demonstration Program, Migrant Services Program, Housing Predevelopment Loan Fund, and the Farmworker Housing Grant Program.

(2) Loans and grants for replacement or reconstruction of existing structures and facilities, including utilities (Class 2) e.g., Solar Loan Fund, Migrant Services Program.

(3) Loans and grants for new construction of limited numbers of single–family residences, and apartments, duplexes and similar structures and new construction of utility extensions of reasonable length to serve such construction, and accessory structures as described in Title 14, Section 15103 of the State CEQA Guidelines (Class 3), including, e.g., Housing Predevelopment Loan Fund, Rental Housing Construction Program, Homeownership Assistance Program, Migrant Services Program, and Farmworker Housing Grant Program.

(4) Loans for the purchase of existing structures where the loan will not be purchased by financial institutions (Class 10), including, e.g., Homeownership Assistance Program.

(5) Loans and grants to public agencies (including housing authorities, redevelopment agencies) to acquire housing units, either already existing or with all permit approvals for construction, in order to implement a Housing Assistance Plan (Class 26).

A notice of exemption must be filed for all categorically exempt activities.

(d) The following activities require preparation of environmental documents unless they are exempt under Section 6980(a) or the provisions above:

(1) Farmworker Housing Grant Program for new construction only.

(2) Housing Predevelopment Loan Fund (urban and rural), for new construction only.

(3) Remote Rural Demonstration Project, for new construction only.

(4) Rental Housing Construction Program.

(5) Homeownership Assistance Program.

(6) Indian Assistance Program, for new construction only.

(7) Century Freeway Replacement Housing Program.

The Department's CEQA responsibilities for programs within the Division of Community Affairs will depend on whether it is the Lead Agency or the Responsible Agency. If another public agency has the greatest responsibility for carrying out or approving the project, (e.g., is the recipient of a grant from HCD) it is the Lead Agency and must prepare environmental documents. In such case, HCD will have the obligations

of a Responsible Agency. Where a private entity is the recipient of a loan or grant from HCD to perform one of the above activities and a local public agency does not have the primary responsibility for approving the project, HCD is Lead Agency and must prepare environmental documents unless another public agency (e.g., CHFA) has a greater responsibility for carrying out the project.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Sections 21065, 21080 and 21080.7, Public Resources Code.

HISTORY

1. Renumbering of Section 6982 to Section 6983 and renumbering and amendment of former Section 6981 to Section 6982 filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6983. Division of Codes and Standards.

(a) The following activities are not projects:

(1) Employee housing operating permits.

(2) Mobilehome park operating permits.

(3) Mobilehome titling and registration.

(4) Mobilehome occupational licensing.

(b) The following activities are ministerial and do not require preparation of environmental documents:

(1) Employee housing construction permits.

(2) Mobilehome park construction permits.

(c) The following activities are categorically exempt:

(1) Inspections, including inspections of factory–built housing, employee housing, mobilehomes, recreational vehicles, and commercial coaches (Class 9).

(d) Adoption of or amendments to the State Housing Law and Earthquake Regulations which may result in significant adverse effects upon the environment, shall require preparation of environmental documents. The Department shall be the Lead Agency with respect to adoption of or amendments to these regulations. Local Agencies shall be responsible agencies when adopting the statewide regulations which have been previously adopted by the Department. Before adopting the statewide regulations, local agencies shall consider the environmental documents, if any, prepared by the Department as required by the State CEQA Guidelines. Local agencies shall conduct an additional environmental analysis, pursuant to Title 14, CAC, Section 15067 of the State CEQA Guidelines, when making any additional local changes to the statewide regulations.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Sections 21080 and 21080.10, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 6982 to Section 6983 filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

Article 6. Criteria for Decision–Making and Findings

§ 6990. Determining Significant Effect.

(See Section 6950 for Definition.)

(a) The determination of whether a project may have a significant effect on the environment calls for careful judgment based on available data. An ironclad definition of "significant effect" is not possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area. Where there is, or there is anticipated to be, a substantial body of opinion that considers the effect to be adverse, the Lead Agency should prepare an EIR to explore the environmental effects involved.

(b) In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider both primary or direct and secondary or indirect consequences. Primary consequences are immediately related to the project (the construction of a new treatment plant may facilitate population growth in a particular area), while secondary consequences are related more to primary consequences than to the project itself (an impact upon the resource base, including land, air, water and energy use of the area in question may result from the population growth).

(c) Some examples of consequences which may be deemed to be a significant effect on the environment are contained in Appendix E.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21068, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6991. Mandatory Findings of Significance.

A project shall be found to have a significant effect on the environment if:

(a) The project has the potential to degrade the quality of the environment, threaten to eliminate a plant or animal community, reduce the number of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.

(b) The project has the potential to achieve short–term environmental goals to the disadvantage of long–term environmental goals.

(c) The project has possible environmental effects which are individually limited but cumulatively considerable. As used in this subsection, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(d) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21068, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6992. Decision to Prepare an EIR.

(a) An EIR must be prepared if an Initial Study establishes that the project may have a significant effect on the environment.

(b) An EIR shall be prepared whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant effect on the environment.

(c) An EIR shall be prepared when there is serious public controversy concerning the environmental effect of a project. Controversy not related to an environmental issue does not require the preparation of an EIR.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; Section 21100, Public Resources Code; and No Oil, Inc. v. City of Los Angeles, 1974 13 Cal.3d 68.

HISTORY

1. Amendment of subsections (b) and (c) filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6993. Findings of Significant Environmental Effects.

(a) The Department shall not approve or carry out a project for which an environmental impact report has been completed which identifies one or more significant effects of the project unless it makes one or more of the following written findings for each of those significant effects, accompanied by a statement of the facts supporting each finding.

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects thereof as identified in the final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Department. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

(b) The findings required by subsection (a) shall be supported by substantial evidence in the record.

(c) The finding in subsection (a) (2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified mitigation measures or alternatives.

(d) A public agency shall not approve or carry out a project as proposed unless the significant environmental effects have been reduced to an acceptable level.

(e) As used in this section, the term "acceptable level" means that all significant environmental effects that can feasibly be avoided have been eliminated or substantially lessened as determined through findings as described in subsection (a), and any remaining, unavoidable significant effects have been found acceptable under Section 6994.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, Section 15050; and Section 21100, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6994. Statement of Overriding Considerations.

The benefits of a proposed project must be weighed against its unavoidable environmental effects in determining whether to approve it. Where the department allows the occurrence of significant environmental effects which are identified in the final EIR but are not mitigated, it must state in writing the reasons to support its action based on the final EIR and/or other information in the record. The Statement shall be included in the record of the project approval and mentioned in the Notice of Determination.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; Section 21100, Public Resources Code; and San Francisco Ecology Center v. City and County of San Francisco, 1975 48 Cal.App.3d 584.

HISTORY

1. Amendment filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

Article 7. Contents of Environmental Documents

§ 6995. Initial Study (IS).

(a) An IS is prepared for a project not exempt from CEQA to determine if it may have a significant effect on the environment and therefore that an EIR is required. It provides a factual basis for the finding in a Negative Declaration and enables the Lead Agency to modify the project, mitigating adverse impacts, before an EIR is written. The IS can also help to focus an EIR on the significant effects of a project. All phases of project planning, implementation and operation must be considered in the IS.

(b) Contents of an IS shall include:

(1) Description of project including location.

(2) Identification of environmental setting.

(3) Identification of environmental effects (use check list, Appendix F).

(4) Discussion of ways to mitigate significant effect identified.

(5) Examination of whether project is compatible with existing zoning and plans.

(6) Name of person(s) who prepared IS.

(Forms F and G meet the requirements above for an Initial Study.)

(c) If the project is to be carried out privately, the Department shall require the person or organization to submit appropriate data and information.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21100, Public Resources Code.

HISTORY

1. Amendment of subsection (c) filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6996. Negative Declaration.

(a) A Negative Declaration shall be prepared for a project which could have a potentially significant effect on the environment, but which the Lead Agency finds on the basis of an Initial Study will not have a significant effect on the environment.

(b) Contents of a Negative Declaration shall include:

(1) A brief description of the project, including a commonly used name for the project, if any.

(2) The location of the project and the name of the project proponent.

(3) A finding that the project will not have a significant effect on the environment.

(4) An attached copy of the Initial Study documenting reasons to support the finding.

(5) Mitigation measures, if any, included in the project to avoid potentially significant effects.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21080(c), Public Resources Code.

HISTORY

1. Amendment of NOTE filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6997. Notice of Determination.

(a) After making a decision to carry out or approve a project for which a Negative Declaration has been prepared, the Lead Agency shall file a Notice of Determination (see Appendix B).

(b) Contents of a Notice of Determination shall include:

(1) An identification of the project including name and location.

(2) A brief description of the project.

(3) The date on which the agency approved the project.

(4) The determination of the agency that the project will not have a significant effect on the environment.

(5) A statement that a Negative Declaration has been prepared pursuant to the provisions of CEQA.

(6) The address where a copy of the ND may be examined.

(c) HCD shall file the Notice of Determination with the Secretary of Resources.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21108, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6998. Environmental Impact Report.

(a) Decision to prepare an EIR (see Section 6992).

(b) General. (See Article 9, State EIR Guidelines.) The EIR shall discuss environmental effects in proportion to their severity and probability of occurrence. A systematic inter–disciplinary approach should be applied. Each report shall contain a brief summary of the proposed actions and its consequences in language sufficiently simple that the issues can be understood by a layperson.

(c) Form. Not more than one EIR shall be prepared in connection with the same underlying activity. The EIR may be prepared as a separate document or as a portion of a project report. If prepared in the latter form, it must contain in one separate and distinguishable section the elements required of an EIR in subdivision (d). A single EIR may be used to describe more than one project, if such projects are essentially the same in terms of environmental impact. Further, the Lead Agency may use an earlier EIR prepared in connection with an earlier project to apply to a later project, if the circumstances of the projects are essentially the same.

(d) Contents. The following elements, which are considered in detail in Article 9 in the State EIR Guidelines, must be included in an EIR:

(1) Description of project

(2) Description of environmental setting

(3) Environmental impact

(A) The significant environmental effects of the proposed project

(B) Any significant environmental effects which cannot be avoided if the proposal is implemented

(C) Mitigation measures proposed to minimize the significant effects

(D) Alternatives to the proposed action

(E) The relationship between local short–term uses of man's environment and the maintenance and enhancement of long–term productivity

(F) Any significant environmental changes which would be involved in the proposed action should it be implemented

(G) The growth–inducing impact of the proposed action

(4) Effects found not to be significant

(5) Organizations and persons consulted.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21061, Public Resources Code.

HISTORY

1. Amendment of subsection (b) filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

§ 6999. CEQA Forms, Appendices A–G.

NOTE: Given the detailed forms contained in these regulations, which are otherwise available to the public or which are of limited and particular application, the Department of Housing and Community Development requests that these regulations not be set forth in full in the California Administrative Code, but that appropriate reference be made therein pursuant to Government Code Section 11409(a).

The regulations are available to the public for review or purchase at cost at the following locations:

PUBLICATIONS OFFICE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
921 TENTH STREET, ROOM 102
SACRAMENTO, CA 95814

ARCHIVES
SECRETARY OF STATE
1020 "O" STREET
SACRAMENTO, CA 95814

The forms contained in Subchapter 3, California Environmental Quality Act, of Chapter 6.5, Title 25, Part 1, are entitled:

Appendix A—Federal Grant Application/Award Notification

Appendix B—Notice of Determination

Appendix C—Notice of Exemption

Appendix D—Notice of Preparation

Appendix E—Significant Effects

Appendix F—Environmental Checklist Form

Appendix G—Environmental Information Form

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Title 14, CAC, Section 15050; and Section 21082, Public Resources Code.

HISTORY

1. Amendment filed 5–5–82; designated effective 6–2–82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 19).

Barclays Official

CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Division 1. Housing and Community Development

Chapter 7. Department of Housing and Community Development Programs

Vol. 33

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Chapter 7. Department of Housing and Community Development Programs

Subchapter 1. Predevelopment Loan Funds

§ 7000. General.

These regulations set forth the policies and procedures governing the management and use of the Predevelopment Loan Fund governed by Sections 50530–50532.5 of the Health and Safety Code.

NOTE: Authority cited: Sections 50402 and 50406(n), Health and Safety Code. Reference: Sections 50530, 50530.5, 50531 and 50532, Health and Safety Code.

HISTORY

1. New Chapter 7, Subchapter 1 (Sections 7000–7018, not consecutive) filed 5–6–77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 19).
2. Amendment filed 6–19–80; effective thirtieth day thereafter (Register 80, No. 25).
3. Amendment filed 1–5–82; effective thirtieth day thereafter (Register 82, No. 2).
4. Amendment filed 8–13–85; effective thirtieth day thereafter (Register 85, No. 33).
5. Amendment of section and NOTE filed 9–19–2003; operative 10–19–2003 (Register 2003, No. 38).

§ 7002. Definitions.

"Applicant" means an entity that has applied for a loan from the Fund.

"Assisted Housing" means housing for which financial assistance is provided through one or more programs designed to reduce housing costs for persons and families of low and moderate income. This assistance may include, but is not limited to, below–market interest loans, grants, rent supplements, development costs subsidies, interest subsidies, below–market priced land, grants of land, or density bonuses. Such housing may include Manufactured Housing and Mobilehome Parks, but does not include emergency shelters for the homeless.

"At–risk Housing" means existing government–assisted rental housing at risk of conversion to market–rate rents, due to factors that may include, but are not limited to, costs of necessary rehabilitation, or a modification or termination of subsidies.

"Borrower" means an "Eligible Sponsor" that has received approval for a Predevelopment Loan from the Fund.

"Construction Financing" means a short–term loan made for financing the construction or rehabilitation of a housing development.

"Cooperative Housing Corporation" is defined in Section 50091 of the Health and Safety Code.

"Department" means the California Department of Housing and Community Development.

"Director" means the Director of the Department, or his or her designee.

"Eligible Sponsors" is defined in Health and Safety Code Section 50530.

"Fund" means the Predevelopment Loan Fund.

"Limited Liability Corporation" includes a "Limited Liability Company" as defined in Section 17000 et seq. of the Corporations Code.

"Loan Agreement" means a signed contract between the borrower and the department for a predevelopment loan with all the terms and conditions as determined by the Department.

"Local Governmental Agency" means any county, city, city and county, the duly constituted governing body of an Indian reservation or rancheria, redevelopment agency or public housing authority, and also includes any state agency, public district or other political subdivision of the state, and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low income. It also includes two or more local public entities acting jointly.

"Low–Income Person" shall have the same meaning as "Lower Income Households" as defined in Section 6928 of this Part.

"Manufactured Housing" means a manufactured home, as defined in Section 18007 of the Health and Safety Code, and includes a mobilehome, as defined by Section 18008 of the Health and Safety Code, or factory–built housing as defined in Section 19971 of the Health and Safety Code.

"Mobilehome Park" is defined by Section 18214 of the Health and Safety Code.

"Nonprofit Corporation" is defined in Section 50091 of the Health and Safety Code.

"Permanent Financing" means a long–term loan which is secured by a deed of trust.

"Persons of Low Income" shall have the same meaning as "Lower Income Households" as defined by Section 6928 of this Part.

"Persons of Very Low Income" shall have the same meaning as "Very Low Income Households" as defined by Section 6926 of this Part.

"Predevelopment Loan" is defined in Health and Safety Code Section 50530.

"Public Transit Corridor" is defined in Health and Safety Code Section 50093.5.

"Preservation" in this subchapter means the acquisition of At–Risk Housing, its rehabilitation if needed, and its continued operation as Assisted Housing.

"Rural Area" is defined in Section 50199.21 of the Health and Safety Code.

"Urban Area" is defined in Section 50104.7 of the Health and Safety Code.

"Very Low Income Person" shall have the same meaning as "Very Low Income Households" as defined by Section 6926 of this Part.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 18007, 18008, 18214, 50055, 50091, 50093.5, 50105, 50199.21, 50530, 50530.5, 50531 and 50532.5, Health and Safety Code.

HISTORY

1. Amendment filed 4–7–78; effective thirtieth day thereafter (Register 78, No. 14).
2. Amendment of subsection (l) filed 6–19–80; effective thirtieth day thereafter (Register 80, No. 25).
3. Amendment filed 1–5–82; effective thirtieth day thereafter (Register 82, No. 2).
4. Amendment filed 10–4–84; effective thirtieth day thereafter (Register 84, No. 40).
5. Amendment filed 8–13–85; effective thirtieth day thereafter (Register 85, No. 33).
6. Amendment of section and NOTE filed 9–19–2003; operative 10–19–2003 (Register 2003, No. 38).
7. Repealer of definitions of "Emergency Loan Amendment" and "Loan Committee" filed 11–1–2004; operative 12–1–2004 (Register 2004, No. 45).

§ 7003. Sponsor Eligibility.

(a) Eligible Sponsors for Predevelopment Loans are:

(1) Local Government Agencies;

(2) Nonprofit Corporations;

(3) Cooperative Housing Corporations; or

(4) Limited Liability Corporations or limited partnerships where all of the general partners are nonprofit mutual or public benefit corporations.

(b) Predevelopment Loans may be made only to Eligible Sponsors who meets the following standards:

(1) Adequate administrative capacity to implement the loans;

(2) Substantial housing development experience or substantial experience in development and administration of other types of public or nonprofit programs; and

(3) If the Eligible Sponsor has received any other loans or grants from the Department, a good record of performance under those loan or grant agreements.

NOTE: Authority cited: Sections 50402 and 50406(n), Health and Safety Code. Reference: Sections 50530, 50530.5, 50531 and 50532, Health and Safety Code.

HISTORY

1. New section filed 9–19–2003; operative 10–19–2003 (Register 2003, No. 38).

§ 7004. Project Eligibility.

(a) Eligible Sponsors must have site control of the proposed project property by one of the following means, in the name of the Eligible Sponsor or an entity controlled by the Eligible Sponsor:

(1) Fee title.

(2) A leasehold interest on the project property with provisions that enable the Eligible Sponsor to make improvements on and encumber the property, provided that the terms and conditions of any proposed lease shall permit compliance with all Predevelopment Loan requirements.

(3) An enforceable option to purchase or lease which shall extend, or may be extended, for a minimum of 3 months beyond the deadline for application submittal. The Department may accept options of less than 3 months if the Eligible Sponsor provides evidence satisfactory to the Department that it has sufficient committed financing to acquire the property prior to expiration of the option.

(4) A disposition and development agreement with a public agency.

(5) An agreement with a public agency that gives the Eligible Sponsor exclusive rights to negotiate with that agency for acquisition of the site, provided that the major terms of the acquisition have been agreed to by both parties; or

(6) A land sales contract, or other enforceable agreement for the acquisition of the property.

(b) Housing assisted by the Predevelopment Loan Fund must be Assisted Housing at least 51% of which is designated to be occupied by Persons of Low Income and affordable to such persons in accordance with Section 6910 et seq. of this Division.

(c) No Predevelopment Loan may be made unless the Department may reasonably anticipate that a commitment can be obtained by the Eligible Sponsor for Construction Financing or Permanent Financing that will permit occupancy by Persons of Low Income.

(d) In making Predevelopment Loans, the Department may consider, but need not be limited to, the following factors:

(1) The past achievements of the Applicant or the relevant experience of the Applicant's board or consultant;

(2) The general availability of public financing for the Assisted Housing;

(3) The need for the Assisted Housing;

(4) The proposed cost of the land and the Assisted Housing;

(5) The number of units assisted by the Predevelopment Loan in relation to the loan amount;

(6) Whether the Assisted Housing will incorporate innovative or energy efficient design and techniques which promote affordable development costs and/or operating expenses;

(7) The number or percentage of units in the Assisted Housing that will be occupied by Very Low Income Persons;

(8) Whether the Assisted Housing will be located within one quarter-mile of schools, major employment centers, medical facilities, grocery stores, pharmacies, parks, and/or police and fire stations,

(9) If the Applicant is a Local Government Agency, the degree to which the city or county in which the Assisted Housing is located has complied with State Housing Element Law (Government Code Section 65580 et. seq.), in accordance with evaluation criteria established by the Department. Failure of the Applicant to comply with State Housing Element Law may be grounds for disapproving a Predevelopment Loan application.

(e) To the extent feasible, the Department shall ensure a reasonable geographic distribution of the funds. Other things being equal, the Department shall give priority to assisting developments that meet either of the following requirements:

(1) The developments will be located in Public Transit Corridors.

(2) The developments will be used for the Preservation and acquisition of existing government-assisted rental housing at risk of conversion to market-rate use. Within this category, the Department shall give priority to those applications that include matching financing from local redevelopment agencies or federal programs.

(f) The Department shall, in each Notice of Funding Availability (NOFA) issued for the program, set a minimum funding target for Rural Areas based on the lesser of:

(1) Historical level of awards made under the Rural Predevelopment Loan Program (PDLP-R), or

(2) Twenty percent (20%) of available funds at the time of NOFA issuance.

NOTE: Authority cited: Sections 50402 and 50406(n), Health and Safety Code. Reference: Sections 50530, 50530.5, 50531 and 50532, Health and Safety Code.

HISTORY

1. Amendment filed 4-7-78; effective thirtieth day thereafter (Register 78, No. 14).
2. Amendment filed 1-5-82; effective thirtieth day thereafter (Register 82, No. 2).
3. Amendment filed 8-13-85; effective thirtieth day thereafter (Register 85, No. 33).
4. Repealer and new section filed 9-19-2003; operative 10-19-2003 (Register 2003, No. 38).

§ 7005. Uses of Funds.

(a) Predevelopment Loans may be made for required expenses which are incurred in the process of, and prior to, securing Construction or Permanent Financing for production, conversion, Preservation or rehabilitation of Assisted Housing, including Mobilehome Parks, which are recoverable from Construction or Permanent Financing once it is obtained. Loans may be made for purposes that include, but are not limited to:

(1) Costs associated with the purchase of land, including existing structures such as mobilehome parks; options to buy land or existing structures; and extensions of the time periods of options to buy land or existing structures.

(2) Fees for professional services, including but not limited to:

(A) Consultant fees;

(B) Architectural fees for reasonable architectural costs in connection with the preparation of an application for Construction or Permanent Financing;

(C) Engineering fees connected with the preparation of an application for Construction or Permanent Financing;

(D) Legal fees incurred in connection with the preparation of an application for Construction or Permanent Financing, obtaining local government approvals, site purchase, a loan closing, or for representation in litigation affecting a Predevelopment Loan Program-assisted project.

(3) Permit or application fees;

(4) Bonding fees;

(5) Costs of site preparation, related water or sewer development, or on-site material expenses;

(6) Repayment of a predevelopment loan obtained from another source and utilized by the Applicant in connection with the proposed housing development;

(7) Escrow deposits; and

(8) Other expenses recoverable from the Construction or Permanent Financing.

(b) Land purchased partially with Predevelopment Loan funds may be used for purposes other than Assisted Housing, for example, the development of non-Assisted Housing or commercial or agricultural uses. In such cases, the amount of the Predevelopment Loan may not exceed the cost for authorized purposes attributable to that portion of the land which will be used for Assisted Housing for Persons of Low Income.

(c) The Department may make Predevelopment Loans for land purchase to Eligible Sponsors even if the Eligible Sponsor is not able at the time the Predevelopment Loan is made to proceed with the development of Assisted Housing on the purchased site.

(d) The Department may make Predevelopment Loans for the development of Mobilehome Parks and Manufactured Housing subdivisions.

(e) Predevelopment Loans may not be made for Construction Financing or for the administrative expenses of the Applicant.

(f) The following limitations on eligible expenses shall apply:

(1) No more than 20% of the total monies appropriated to the Fund, or a lower limit which the Department may set in a Notice of Funding Avail-

ability (NOFA), shall be committed to any single Borrower at any time. If the Applicant is a Limited Liability Corporation or limited partnership, all Predevelopment Loan commitments to the general partner or general partners shall be counted when determining whether this limit has been reached.

(2) The aggregate amount loaned for purposes other than for an option to purchase land or existing structures, the purchase of real property or existing structures, or physical site development shall not exceed $100,000.

(3) The amount loaned for the purchase or refinance of real property shall not exceed its fair market value. Fair market value shall be determined by an appraisal based on comparable sales or by any other appraisal method or evidence of value approved by the Department. The Borrower shall pay the cost of an appraisal, but the cost may be financed through a Predevelopment Loan.

(4) Predevelopment Loans or special account disbursements for purchase option payments, purchase option extensions or escrow deposits shall not exceed 10% of the purchase price.

(5) Except for loans for option payments or escrow deposits of $1,000 or less, the option or escrow agreement shall provide for the return of the option Payment or escrow deposit if:

(A) The seller is unable to deliver clear title to the land or is unable to convey the land for any other reason, or

(B) The purchase price exceeds fair market value.

(6) If the Predevelopment Loan for an option payment or escrow deposit exceeds $15,000, the option or escrow agreement shall provide for the return of the payment or deposit if a Construction or Permanent Financing commitment cannot be obtained.

(7) Options and escrow agreements shall be assigned to the Department as security.

(8) Predevelopment Loans may be made for land purchase only if the Department finds that development of the site for affordable housing is feasible.

(9) Predevelopment Loans for engineering fees shall not exceed 50% of a housing development's total engineering costs or $10,000, whichever is greater. The Department may increase this limit if the housing development includes the construction of water and sewer lines or facilities. Disbursement of engineering fees shall be staged in accordance with the completion of engineering work.

(10) Disbursement of architectural fees shall be staged in accordance with the completion of architectural work.

(11) Predevelopment Loans for legal fees shall not exceed $5,000. Loan funds shall not be disbursed unless the legal fees are itemized. Predevelopment Loans shall not be made for legal fees incurred in the formation of Eligible Sponsors.

(12) Predevelopment Loans for consultant fees shall not exceed 1% of the housing project's development costs, and shall only be made if the tasks of the consultant are enumerated in an agreement between the Applicant and the consultant which is approved by the Department. Payments to a consultant shall be staged in accordance with the completion of various tasks.

(13) Predevelopment Loans for bonding, permits, deposits and application fees may be made to the extent that there is a need to pay for such fees prior to obtaining Construction or Permanent Financing.

(14) Predevelopment Loans for site preparation, on-site material expenses and related water or sewer development may be made only if the Applicant has made a reasonable effort to obtain funds for these purposes from alternative sources.

(15) Limitations on other loan purposes pursuant to subdivision (a)(8) of this section may be established by the Director. The Director may waive any requirement of this section not otherwise required by law if it is determined that the waiver would not adversely affect the purposes of the Fund or that the requirement would impose an intolerable burden on the Borrower.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 50530, 50530.5, 50531 and 50532, Health and Safety Code.

HISTORY

1. Renumbering and amendment of Section 7004 (e)-(f) to Section 7005 filed 1-5-82; effective thirtieth day thereafter (Register 82, No. 2). For history of former section, see Register 78, No. 14.
2. Editorial correction of subsections (a), (d) and (g) (Register 82, No. 9).
3. Amendment of subsections (a), (b), (d) and (i) filed 10-4-84; effective thirtieth day thereafter (Register 84, No. 40).
4. Amendment filed 8-13-85; effective thirtieth day thereafter (Register 85, No. 33).
5. Repealer and new section filed 9-19-2003; operative 10-19-2003 (Register 2003, No. 38).
6. Amendment of subsection (f)(15) filed 11-1-2004; operative 12-1-2004 (Register 2004, No. 45).

§ 7006. Rates and Terms.

(a) Interest. The interest rate for Predevelopment Loans is 3%. Interest will be charged only on funds actually advanced to, or on behalf of, the Borrower.

(b) Reduced Interest. The interest rate for loans may be reduced or eliminated prior to repayment of the loan if the Director makes a finding that charging it would prevent a significant number of Persons of Very Low Income from owning or occupying new or rehabilitated Assisted Housing.

(1) To obtain a reduction or elimination of the current interest rate, the Borrower shall expressly so request and submit written evidence which demonstrates the necessity of the reduction or elimination of the interest rate.

(2) On the basis of the written evidence submitted, the Department shall determine the appropriate interest rate, if any, to be charged on the loan.

(3) For all loans for which no interest is to be charged, an amount not to exceed 2% of the loan amount shall be charged as a loan origination fee, which may be:

(A) Paid in cash by the borrower at the time of loan closing; or

(B) Added to the approved loan amount and be payable at the time of loan repayment.

(c) Term. Predevelopment Loans may be made for a term of up to two years. Existing loans may be extended at the discretion of the Director.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 50530, 50530.5, 50531 and 50532, Health and Safety Code.

HISTORY

1. Amendment filed 4-7-78; effective thirtieth day thereafter (Register 78, No. 14).
2. Amendment of subsections (a) and (c) filed 1-5-82; effective thirtieth day thereafter (Register 82, No. 2).
3. Amendment of subsections (a) and (b) filed 10-4-84; effective thirtieth day thereafter (Register 84, No. 40).
4. Amendment filed 8-13-85; effective thirtieth day thereafter (Register 85, No. 33).
5. Amendment of section and NOTE filed 9-19-2003; operative 10-19-2003 (Register 2003, No. 38).
6. Amendment of subsections (b) and (c) filed 11-1-2004; operative 12-1-2004 (Register 2004, No. 45).

§ 7008. Special Conditions.

(a) Loan Documents. Before the Department disburses funds to any Borrower, the Borrower will be required to submit to the Department the following executed documents which will have been prepared by the Department or at its direction:

(1) A borrowing resolution.

(2) A Loan Agreement.

(3) A promissory note.

(4) Security instrument(s).

(5) Any other documents necessary to complete the transaction which are required by the Department. Additional documents may include, but not be limited to, a policy of titles insurance, preliminary title report, appraisal, and environmental reports.

(b) Loan Disbursements. Loan funds will be disbursed to, or on the behalf of, the borrower as the need for funds arises. Borrowers must request disbursements in writing from the Department. Disbursement requests must be supported by evidence of an obligation that is due or is about to become due.

(c) Non-Discrimination and Affirmative Action. Borrowers must agree to adopt and implement all current contract requirements of HCD and the Department of General Services for the Loan Agreement, which may cover all aspects of the construction, marketing, and management of the housing developed with the assistance of the Fund.

(d) Local, State or Federal Requirements. Borrowers will be required to abide by such local, state or federal regulations as are applicable to the proposed housing developments. These may include but are not limited to: zoning ordinances; building codes; planning; historic preservation; environmental and relocation regulations; and Article XXXIV of the California Constitution.

(e) Relocation. If the housing development financed with loan funds will result in the temporary or permanent displacement of one or more persons from their residences, the Borrower shall submit a relocation plan to the Department prior to disbursement of loan funds. Such plan shall adequately respond to the needs of displacees, as determined by the Department.

(f) Security. Each loan will be secured in a manner that adequately protects the interests of the Department. Security may include but is not limited to:

(1) Deeds of trust or other liens on real property;

(2) Assignments of options or escrow agreements;

(3) Liens on personal property; or

(4) A deed of trust or other lien on a leasehold interest in Indian trust land.

(g) Reports. Borrowers are required to provide the Department with reports on the progress of housing developments and the purposes for which the loan funds have been used. Reports must be submitted monthly.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 50530, 50530.5, 50531 and 50532, Health and Safety Code; and Section 7261.6, Government Code.

HISTORY

1. Amendment filed 1-5-82; effective thirtieth day thereafter (Register 82, No. 2).
2. Amendment of subsection (g) filed 10-4-84; effective thirtieth day thereafter (Register 84, No. 40).
3. Amendment of subsections (c) and (f) filed 8-13-85; effective thirtieth day thereafter (Register 85, No. 33).
4. Amendment of section and NOTE filed 9-19-2003; operative 10-19-2003 (Register 2003, No. 38).
5. Amendment of subsection (f) filed 11-1-2004; operative 12-1-2004 (Register 2004, No. 45).

§ 7010. Disbursements for Unspecified Sites.

NOTE: Authority cited: Sections 50406(n) and 50701, Health and Safety Code. Reference: Sections 50515-50517.4, 50530 and 50532.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 7010 to new Section 7012, and renumbering and amendment of former Section 7710 to Section 7010 filed 8-13-85; effective thirtieth day thereafter (Register 85, No. 33).
2. Repealer filed 9-19-2003; operative 10-19-2003 (Register 2003, No. 38).

§ 7012. Processing Applications.

(a) Requests for loans must be made to the Department on its Predevelopment Loan Fund Application Form. Applications may be obtained from the Program Manager of the Predevelopment Loan Funds at P.O. Box 952054, MS 390-5, Sacramento, CA 94252-2054.

(b) Applications for loan funds will be reviewed by the Predevelopment Loan staff of the Department.

(c) Completed applications will be submitted for approval or disapproval to the Department.

(d) Applicants will be notified in writing of the Department's action, including any conditions which the Director has placed on the loan. If the loan is rejected, the written notice will include the reasons for the rejection.

(e) Reconsideration Procedure.

(1) Applicants whose loan applications have not been approved by the Director may submit a request for reconsideration by writing to the Director.

(2) The Director will review all requests for reconsideration and inform the Applicant in writing of the decision.

(3) The decisions of the Director shall be final.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 50530 and 50532, Health and Safety Code.

HISTORY

1. Amendment filed 1-5-82; effective thirtieth day thereafter (Register 82, No. 2).
2. Renumbering and amendment of former Section 7012 to new Section 7014, and renumbering and amendment of former Section 7010 to Section 7012 filed 8-13-85; effective thirtieth day thereafter (Register 85, No. 33).
3. Amendment of section and NOTE filed 9-19-2003; operative 10-19-2003 (Register 2003, No. 38).
4. Amendment of subsections (a) and (c), repealer of subsections (d) and (g) and subsection relettering filed 11-1-2004; operative 12-1-2004 (Register 2004, No. 45).

§ 7014. Priorities in Use of Funds.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 50515-50517 and 50530-50532, Health and Safety Code.

HISTORY

1. Amendment filed 4-7-78; effective thirtieth day thereafter (Register 78, No. 14).
2. Amendment filed 1-5-82; effective thirtieth day thereafter (Register 82, No. 2).
3. Renumbering and amendment of former Section 7014 to new Section 7016, and renumbering and amendment of former Section 7012 to Section 7014 filed 8-13-85; effective thirtieth day thereafter (Register 85, No. 33).
4. Repealer filed 9-19-2003; operative 10-19-2003 (Register 2003, No. 38).

§ 7016. Loan Termination.

(a) Loan commitments or Loan Agreements may be terminated, or the loan amounts reduced, by the Department if the Director determines that:

(1) One or more conditions to commitment, agreement, or disbursement have not been or will not be met;

(2) Development of the Assisted Housing is not progressing or is anticipated not to progress within a reasonable time as determined by the Department.

(3) The objectives of the loan cannot be met; and/or

(4) The Department's security is jeopardized.

(b) If the Department determines that a purchased site cannot be developed by a Borrower within a reasonable period of time as determined by the Department, the Borrower shall convey the site to the Department, which shall transfer the site to be sold pursuant to Health and Safety Code Sections 50406(o) and 50532(c). In determining a reasonable period of time, the Department shall consider factors in 7004, Borrower cooperation with the Department's requirements, and continuing progress toward developing the site and obtaining Construction and Permanent Financing.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 50530, 50530.5, 50531 and 50532, Health and Safety Code.

HISTORY

1. Amendment filed 6-19-80; effective thirtieth day thereafter (Register 80, No. 25).
2. Repealer and new section filed 1-5-82; effective thirtieth day thereafter (Register 82, No. 2).
3. Renumbering and amendment of former Section 7016 to Section 7018, and renumbering and amendment of former Sections 7014 and 7714(a)(2) to Section 7016 filed 8-13-85; effective thirtieth day thereafter (Register 85, No. 33).
4. Amendment of section and NOTE filed 9-19-2003; operative 10-19-2003 (Register 2003, No. 38).

§ 7018. Reconsideration Procedure.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 50515-50517.4 and 50530-50532.5, Health and Safety Code.

HISTORY

1. Repealer of former Section 7016 and renumbering and amendment of Section 7018 to Section 7016 filed 1-5-82; effective thirtieth day thereafter (Register 82, No. 2).
2. Renumbering and amendment of former Section 7016 to new Section 7018 filed 8-13-85; effective thirtieth day thereafter (Register 85, No. 33).

3. Repealer filed 9–19–2003; operative 10–19–2003 (Register 2003, No. 38).

Subchapter 1.5. California Low–Income Home Management Training Program

Article 1. Authority and Purpose

§ 7030. Authority.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Sections 50625–50629, Health and Safety Code.

HISTORY

1. New Subchapter 1.5 (Articles 1–2, Sections 7030–7045, not consecutive) filed 6–19–80; effective thirtieth day thereafter (Register 80, No. 25).
2. Change without regulatory effect repealing subsection 1.5, article 1 and section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7031. Purpose.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Sections 50626 and 50627, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

Article 2. Guidelines for Awarding Grants

§ 7035. Application.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Sections 50625–50629, Health and Safety Code.

HISTORY

1. Repealer filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing article 2 filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7036. Scope.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Sections 50626 and 50629, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7037. Amount of Grants and Funding Period.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Section 50627, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7038. Restrictions on the Use of Grant Funds.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Section 50627, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7039. Eligible Sponsors.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Sections 50627 and 50629, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day hereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7040. Conditions of Grant Awards.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Section 50628, Health and Safety Code.

HISTORY

1. Amendment filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7041. Priorities in Awarding Grants.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Sections 50627 and 50629, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7042. Submission of Grant Proposals.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Section 50627, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7043. Required Proposal Information.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Section 50627, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7044. Administration of Grants and Reporting Requirements.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Sections 50626 and 50627, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7045. Technical Assistance.

NOTE: Authority cited: Section 50626, Health and Safety Code. Reference: Sections 50626 and 50627, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

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Subchapter 2. State Community Development Block Grant Program

Article 1. General

§ 7050. General.

The Federal Omnibus Budget Reconciliation Act of 1981 provides for State administration of the Federal Community Development Block Grant Nonentitlement Program. These regulations set forth the policies and procedures governing the State's management and use of these funds. In addition to these regulations, program participants must comply with Federal regulations contained in Title 24 of the Code of Federal Regulations, Part 570, Subpart I. In the event that Congress or the State Legislature add or amend any requirements concerning the use or management of these funds, grantees shall comply with such requirements upon receipt of notice from the Department of the additional requirements.

NOTE: Authorities cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5301 and 5306(d); Federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35); and 24 CFR, Part 570, Subpart I.

HISTORY

1. New Subchapter 2 (Articles 1-4, Sections 7050-7124, not consecutive) filed 12-30-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 1). For history of former Subchapter 2, see Registers 82, No. 2; 80, No. 25 and 78, No. 5.
2. Amendment filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
3. Amendment filed 2-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).

§ 7052. Primary Objectives.

The primary objectives of this program are: 1) the development and preservation of cities and counties by providing decent housing and a suitable living environment and expanding economic opportunities, principally for the targeted income group; and 2) not less than fifty-one percent (51%) of the funds made available to the Department pursuant to the program shall be utilized by the Department to make grants to eligible cities or counties for the purpose of providing or improving housing opportunities for the targeted income group or for purposes directly related to the provision or improvement of housing opportunities for the targeted income group including, but not limited to, the construction of infrastructure.

Pursuant to Section 104(a)(1) of the Housing and Community Development Act of 1974, as amended, the Department shall annually prepare a statement of community development objectives and projected uses of funds. This statement shall be made available to the public and published, and the Department shall conduct no less than two public hearings at different locations on its contents. The statement shall be available for review for at least thirty (30) days prior to the public hearings.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 50406, 50407 and 50828, Health and Safety Code; 42 U.S.C. 5301 and 5304(a)(1) and (2); 24 CFR, 570.489 and 570.490.

HISTORY

1. Amendment filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment filed 3-4-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 10).

§ 7054. Definitions.

"Act" means Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq. , as amended.

"Activity" means any single eligible undertaking carried out as part of an applicant's program under the State CDBG Program.

"Applicant" means any eligible city or county that applies for funds pursuant to this subchapter as set forth in Section 7060.

"CFR" is the acronym used for the Code of Federal Regulations.

"Chief executive officer" of a unit of local government means the mayor of a city, the chairman of a county board of supervisors, or the official designated pursuant to law by the governing body of the unit of general local government who has the primary responsibility for the conduct of that unit's governmental affairs.

"Community Development Block Grant Funds," "CDBG Funds," or "Grant Funds" means any funds allocated by a grant agreement pursuant to this subchapter or previously funded to nonentitlement jurisdictions by HUD pursuant to their authority under the Act.

"Department" means the State of California Department of Housing and Community Development.

"Director" means the Director of the Department.

"Economic Development Allocation" means the funds set aside each year for economic development pursuant to Health and Safety Code Section 50827 and Section 7062.1.

"Federal regulations" means the federal regulations governing the State administration of the Community Development Block Grant nonentitlement funds set forth in the Code of Federal Regulations, Title 24, Part 570, Subchapter C, Subpart I, commencing with Section 570.480.

"Funding" means financial assistance provided in whole or in part for any eligible activity.

"Funding Cycle" means the annual period of time during which HUD makes funds available to the State for distribution to local governments pursuant to the Act, and includes the period of time during which the Department solicits applications and makes grant awards.

"Grant Agreement" means the contractual arrangement between the State and the Grantee which sets forth the terms and conditions by which State CDBG funds are utilized.

"Grantee" means a unit of general local government which has been awarded funds provided pursuant to this subchapter to carry out a program.

"Household" means persons occupying a housing unit as the place of residence.

"Housing Element" means the part of a city or county's General Plan as required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

"HUD" means the United States Department of Housing and Urban Development.

"Infrastructure" means the physical systems such as roads, sidewalks, streetlights, water and sewer facilities which are necessary to provide basic community services.

"Lowest Targeted Income Group" means persons and households with incomes less than 50 percent of the latest HUD estimated area median family income who are intended to be beneficiaries of the State CDBG Program.

"Microenterprise" means a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise.

"Overpaying" means households which are paying more than 25% of their gross household income for housing costs, including utilities. Data used to document overpaying includes the percentage of renters who pay more than 25% of household income for gross rent, including utilities, and the percentage of homeowners who pay more than 25% of household income for selected housing costs, including utilities, based on the latest available U.S. Census data.

"Permanent job" means a full-time or full-time equivalent job created or retained by an activity funded under the Economic Development Allocation which is directly related to the expansion or retention of a business. To be considered "full-time" a job must provide at least 1,750 hours per year. Part-time jobs that provide at least 875 hours per year of employment may be aggregated to arrive at a full-time equivalent job of at least 1,750 hours per year.

"Poverty Persons" means individuals whose incomes are below the poverty level based on the latest available U.S. Census data.

"Program" means all of the activities funded in whole or in part included in an application which are funded under this subchapter.

"State" means the State of California.

"Targeted Income Group" or "TIG" means persons and households intended to be the principal beneficiaries of the State Community Development Block Grant program. The term targeted income group includes the component "lowest targeted income group" unless otherwise specified in this subchapter. Applicants shall use income limits provided annually by the Department in determining program benefit to the targeted income group. These income limits are based on the latest HUD estimate of area median family income with adjustments for unusually low income areas. For a family of four, the "targeted income group" limit is 80% of the latest HUD estimated or adjusted area median family income. For a family of four, the income limit for lowest targeted income group limit is 50% of the latest HUD estimated area median family income. Income limits for other household sizes are based on household size adjustment factors.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Section 65580 et seq., Government Code; Sections 50406, 50407 and 50827, Health and Safety Code; 25 California Administrative Code 6008(c)(5), 42 U.S.C. 5301, et seq.; and 24 CFR, Part 570, Subpart I.

HISTORY

1. Amendment filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment filed 2-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
3. Amendment filed 3-4-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 10).
4. Amendment adding definitions for "CFR," "Economic Development Allocation," "Federal regulations," "Microenterprise" and "Permanent job," amendment of "Targeted Income Group," and amendment of NOTE filed 11-8-95; operative 11-8-95 pursuant to Government Code section 11343.4(d) (Register 96, No. 48).

Article 2. Application Process

§ 7056. Application and Funding Requirements.

(a) The applicant shall meet the following requirements when the application is submitted:

(1) The applicant shall submit all the application information required in Section 7062.1 and/or Section 7070 as applicable.

(2) The applicant shall have resolved any audit findings, performance problems for program income or performance problems for prior CDBG grants awarded by an urban county, by HUD under the Small Cities Program or by the State under this subchapter. The Director may waive this requirement when such problems or findings result in no obligation to return funds to the grantor, arrangements satisfactory to the grantor have been made for repayment, disencumbrance, performance, or a formal action to resolve the matter has been taken.

(b) Applicants shall meet the following requirements prior to an award of grant funds:

(1) As a condition of receiving funds pursuant to this subchapter, an eligible city or county shall have submitted a housing element to the Department in accordance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. However, except as otherwise provided in Section 50830 of the Health and Safety Code, no application for funds shall be denied because of the content of the housing element or because of the findings made by the Department pursuant to Section 65585 of the Government Code.

(2) (A) Except as otherwise provided in subparagraphs (B) and (C), no city or county shall be eligible to receive funds pursuant to this Subchapter if the city or county has adopted a general plan, ordinance, or other measure which directly limits, by number, either of the following:

1. The building permits that may be issued for residential construction.
2. The buildable lots which may be developed for residential purposes.

(B) Subparagraph (A) shall not apply to either of the following:

1. An ordinance adopted by a city or county which does any of the following:

a. Imposes a moratorium, to protect the public health and safety, on residential construction for a specified period of time, if, under the terms of the ordinance, the moratorium will cease when the public health or safety is no longer jeopardized by the construction.

b. Creates agricultural preserves pursuant to Chapter 7 (commencing with Section 51200) of Part 2 of Division 1 of Title 5 of the Government Code.

c. Was adopted pursuant to a specific requirement of a state or multi-state board, agency, department, or commission.

2. A city or county which has a housing element that the department has found to be adequate pursuant to subdivision (c) of Section 65585 of the Government Code or which is deemed to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code pursuant to Section 65586 of the Government Code at the time the city or county applies for funds under the program, unless a final order has been issued by a court in which the court determined that the housing element is not in compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(C) A city or county which has adopted a general plan, ordinance, or other measure subject to the restrictions of subparagraph (A), which are not exempted by subdivision (B), may, notwithstanding subparagraph (A), receive funds pursuant to this subchapter if the use of the funds is restricted for housing for the targeted income group. However, applications from cities or counties which have not adopted a general plan, ordinance, or other measure subject to the restrictions of subparagraph (A) shall, to the extent that eligible applications for grants exceed the amount available for distribution pursuant to this Subchapter have priority over applications from cities or counties which have adopted such a general plan, ordinance, or other measure which are not exempted by subdivision (B).

(3) At least fifty-one percent (51%) of the funds applied for shall benefit the targeted income group. No activity or portion of a program assisted by these funds may exclude from its benefits the lowest targeted income group. Individual activities shall meet one of the three national objectives which are: (1) the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income; (2) aiding in the prevention or elimination of slums or blight; or (3) meeting other community development needs having a particular urgency. For the purposes of this section, "slums" and "blight" means a blighted area or structure characterized by one or more of the following conditions: (1) the buildings and structures, used or intended to be used for living, commercial, industrial, or other purposes, which are unfit to occupy for such purposes and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime because of factors listed in Health and Safety Code Section 33031; and (2) properties which suffer from economic dislocation, deterioration, or disuse because of factors listed in Health and Safety Code, Section 33032. For the purposes of this section, an activity will be considered to address the standard of urgency if the applicant certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the applicant is unable to finance the activity on its own, and that other sources of funding are not available to meet such needs. For the purposes of this section, any condition which has existed longer than eighteen (18) months prior to the final filing date for applications shall not be considered to meet the standard of urgency.

(4) The single-year program described in the application must be scheduled for completion within twenty-four (24) months from the date the grant agreement is executed by the State. The multi-year, two or three year program described in the application must be scheduled for completion within 36 or 48 months, respectively. The Department may waive this provision in writing if it determines that the program, by its nature,

cannot be completed within the 24, 36, or 48 month period, or that conditions beyond the grantee's or State's control hinder program completion.

(5)(A) If CDBG grant funds or local program income will be used to operate a program (i.e., activities serving multiple separate projects, not persons), the applicant shall submit program guidelines to the Department for approval. No CDBG grant funds or local program income shall be expended to operate a program until the Department has approved the program guidelines in writing.

(B) The program guidelines shall describe how the program will be operated and how it will comply with State and federal regulations. In addition, program guidelines shall address the following topics:

1. Loan terms and interest rates;

2. Loan underwriting standards;

3. Loan application processing procedures and timing for loan approvals;

4. Procedures for resolving disputes between the participant and the CDBG grantee;

5. Description of any property restrictions imposed as a condition of receiving the loan (e.g., resale controls, equity sharing);

6. Loan servicing policies addressing the issues of: subordination; refinancing; change in occupancy, change in use, assumptions, and verification of payment of taxes and insurance.

7. If the program will involve rehabilitation or construction, procedures for developing the scope of work, description of the contractor procurement and payment process, and a description of the conflict resolution process in the event of a dispute between the contractor and the program participant.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 51200, et seq., and Sections 65580 et seq., Government Code; Sections 33031, 33032, 50406, 50407, 50829 and 50830, Health and Safety Code; 42 U.S.C. 5304 and 5306; 24 CFR 570.489(a) and (b) and 24 CFR 570.901(b)(3).

HISTORY

1. Amendment filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment filed 2-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
3. Amendment filed 3-4-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 10).
4. Editorial correction of subsection (a)(1) (Register 2005, No. 5).
5. Amendment of subsections (a)(2) and (b)(4) and new subsections (b)(5)(A)-(b)(5)(B)7. filed 4-25-2005; operative 5-25-2005 (Register 2005, No. 17).

§ 7058. Eligible Activities.

Activities eligible for funding are those described in 42 USC §5305.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 15 U.S.C. 681; 42 U.S.C. 1450 et seq.; 42 U.S.C. 5305; 24 CFR, Part 570, Subpart C; 24 CFR 570.489 and 24 CFR 570.482.

HISTORY

1. Amendment filed 2-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
2. New subsection (a) and amendment of NOTE filed 11-8-95; operative 11-8-95 pursuant to Government Code section 11343.4(d) (Register 96, No. 48).
3. Repealer of section, new section and amendment of NOTE filed 7-31-96; operative 7-31-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).
4. Editorial correction adding HISTORY 2 and renumbering former HISTORY 2 to HISTORY 3 (Register 96, No. 48).

§ 7060. Eligible Applicants.

Any city or county is eligible to apply for the State CDBG Program except a city or county which participates in or is eligible to participate in the HUD administered Community Development Block Grant Entitlement Program. The following restrictions shall apply to all applicants under the State Program.

(a) Except as provided in Sections 7062 and 7062.1, an applicant may submit only one application each funding cycle for activities in its jurisdiction. A grantee receiving a grant award for up to three annual funding awards pursuant to Section 7064(c) that does not undertake the portion of its program funded from the second or third funding award may submit a new application, provided the multi year award has been terminated under the terms of the grant agreement. A grantee that has received a multiple year award for up to three years, where any of the annual awards is less than $500,000, may submit an application under the second and/or third year for additional awards, which when combined with their existing annual funding awards, do not exceed $500,000 per year.

(b) Applications may be submitted by individual eligible applicants or by groups of eligible applicants in any of the following forms. Except as provided in paragraphs (5) and (6) below, no eligible applicant may be included in more than one application that provides direct program benefits to that political subdivision.

(1) An eligible applicant may apply on its own behalf.

(2) An eligible applicant may apply on its own behalf and in the same application on behalf of one or more other eligible applicants.

(3) An eligible applicant may apply on behalf of one or more other eligible applicants in the same application or may apply on behalf of one or more other eligible applicants in separate applications.

(4) Two or more eligible applicants which share a program may submit a joint application.

(5) In addition to an application submitted under Section 7060(a), an eligible applicant may apply separately for activities in target areas within or outside of the applicant's jurisdiction when there are concentrations of Native American Indians as described in Section 7062 provided the concentration is within an eligible city or county. Applications for target areas outside the applicant's jurisdiction must include a joint powers agreement with the city or county in which the target area is located.

(6) In addition to an application submitted under Section 7060(a) or Section 7060(b)(5), an eligible applicant may apply separately for activities under Section 7062.1.

(c) Cooperation agreements. Executed joint powers agreements, consistent with the requirements of Section 6500 et seq. of the Government Code must be submitted with joint applications and applications on behalf of another unit or units of local government. These agreements must be on a form provided by the Department.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 6500, et seq., Government Code; Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5303 and 5306(d)(2); and 24 CFR 570.489.

HISTORY

1. Amendment of subsections (a) and (b) filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment filed 2-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
3. Amendment of subsection (a) filed 4-26-2002; operative 4-26-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 17).
4. Amendment of subsection (a) filed 4-25-2005; operative 5-25-2005 (Register 2005, No. 17).

§ 7062. Special Allocation for Native American Indian Communities.

Pursuant to the requirements of 24 CFR, Part 1, the Department finds that there are within the State of California, communities principally comprised of low-income Native American Indians not recognized as Indian Tribes as defined in Section 102(a)(17) of the Act (the Act defines Indian Tribes as any Indian tribe, band, group, and nation . . . of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638), or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512)). The Department also finds that these communities have, in previous years, received the benefits of the Act primarily through the Department's successful submittal of applications on their behalf. The Department further finds that its inability to continue to apply on behalf of this minority population, caused by the legal constraints of the 1981 amendments to the Act, and the legal ineligibility of these groups to apply on their own behalf for federally- or State-administered CDBG funds, will have the effect of depriving this minority group from participating in the State CDBG Program unless there are some affirmative measures to ensure its participation.

(a) Pursuant to the requirements and authority of 24 CFR 1.4(c)(6)(ii) and by the direction of the State Legislature, the Department shall set aside an amount equal to one and one quarter percent (1.25%) of the total State CDBG funds to be granted to eligible applicants for identifiable geographic areas within eligible cities and counties comprised of high concentrations of Native American Indians not recognized as Indian Tribes as defined in Section 102(a)(17) of the Act. For the purpose of this section, identifiable geographic areas comprised of high concentrations of Native American Indians means identifiable geographic areas comprised of no less than fifty one percent (51%) Native American Indians not recognized as an Indian Tribe by the Act. An identifiable geographic area may be defined by locally accepted social, historical, physical, political, or past programmatic boundaries.

(b) An application for this set aside may be in addition to another application submitted by an eligible city or county pursuant to Section 7060(b)(1)–(5). Applications submitted under this section will be independently evaluated and ranked against other applications for this special allocation without regard to the rating of an application submitted pursuant to another section of this subchapter.

(c) An application submitted pursuant to this section shall be in the form prescribed for applications in Section 7070 and shall comply in all other respects with this subchapter. CDBG funds utilized within the identifiable geographic areas must principally benefit residents in the targeted income groups without regard to race, religion, national origin, or sex. In the event all the set aside funds are not awarded in a funding cycle, the Department shall award the remaining funds to the highest ranked unfunded applications submitted under Section 7072.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 50406, 50407 and 50831, Health and Safety Code; Public Law 93–638 (25 U.S.C. 450(b)); Public Law 92–512 (31 U.S.C. 1227(4)); 42 U.S.C. 5306(d)(2); and 24 CFR 570.489.

HISTORY

1. Amendment of subsection (b) filed 1–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment of subsection (c) filed 2–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).

§ 7062.1. Special Allocation for Economic Development.

(a) The Department shall set aside from the total amount available from HUD, for grants to cities and counties an amount equal to thirty percent (30%) for the activities specified in this section. Applications submitted under this section must comply with all the requirements of this subchapter except where noted in this section. Economic Development Allocation funds shall be awarded through three components: the California Community Economic Enterprise Fund ("Enterprise Fund") set forth in subsection (b); the Over–the–Counter Component ("OTC Component") set forth in subsection (c); and the Planning and Technical Assistance Component ("Planning Component") set forth in subsection (d).

(1) Activities eligible for funding under the Economic Development Allocation are those activities which are subject to the Standards for Evaluating Public Benefits set forth in subsection (f) of 24 CFR Section 570.482 as well as activities which assist microenterprises. Eligible activities shall also meet a national objective as specified in Section 104(b)(3) of the Act (42 U.S.C. Sec. 5304(b)(3)) and 24 CFR Section 570.483. The Department shall utilize Section 105(a) of the Act (42 U.S.C. Sec. 5305(a)), 24 CFR Section 570.482, and Subpart C of Part 570 of the federal CDBG regulations commencing with Section 570.200, for guidance in determining the eligibility of activities proposed under this section. Where CDBG funds are used for public improvements (e.g., water, sewer or road improvements) the national objective shall be met pursuant to 24 CFR Section 570.483.

(2) In order to be eligible for funding from the Enterprise Fund or the OTC Component, with the exception of assistance to microenterprises, a project or activity (hereinafter collectively referred to as an "activity") shall be capable of generating sufficient public benefit relative to the amount of CDBG assistance provided as required by the Act. The Department, with respect to activities funded from the OTC Component, and Grantees with respect to activities funded with Enterprise Funds, shall utilize the federal standards specified at 24 CFR Section 570.484(f) to determine whether sufficient public benefit will be generated by a proposed activity.

(3) Prior to the funding of any activity from either the Enterprise Fund or the OTC Component, the activity shall be underwritten to insure that: (i) the activity's costs are reasonable; (ii) that all sources of activity financing are committed; (iii) that to the extent practicable, CDBG funds are not substituted for non–Federal financial support; (iv) that the activity is financially feasible; (v) that to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and (vi) that to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the activity. Activities shall be underwritten by the Department, with respect to activities funded from the OTC Component, and by Grantees with respect to activities funded with Enterprise Funds, utilizing the federal Guidelines and Objectives for Evaluating Project Costs and Financial Requirements set forth as Appendix A to 24 CFR Part 570.

(4) An activity funded from the Enterprise Fund or the OTC Component shall be reevaluated by the Department or grantee pursuant to subsections (a)(2) and (a)(3) of this Section if the underlying assumptions relied upon by the Department or the Enterprise Fund grant recipient in making its original funding decision materially change. A "material change", for these purposes, means: (1) a change in the size, scope, location or public benefit of the activity; or (2) a change in the terms or the amount of the private funds (including lender's funds and equity capital) to be invested in the activity; or (3) a change in the terms or the amount of the CDBG assistance to be made available to the activity. If a material change has occurred and a reevaluation of the activity indicates that the financial elements and public benefit to be derived have also changed, then appropriate adjustments in the amount, the type of CDBG assistance and/or the terms and conditions under which that assistance has been offered shall be made to reflect the impact of the material change.

(5) In the event that an activity funded under the Enterprise Fund or OTC Component fails to meet a federal national objective or state or federal eligibility requirement, at the Department's discretion, a Grantee may be required to repay all or a portion of the grant amount from a non–federal source of revenue, and/or may be required to return all or part of any program income received from the CDBG–assisted activity to the Department. In determining the appropriate remedy, the Department shall, at a minimum, consider the following factors: (1) actions taken by the Grantee to avoid the adverse circumstances in the first place; (2) actions taken by the Grantee to mitigate the circumstances once the problem was discovered; and (3) timeliness of steps taken to protect and/or recover CDBG funds. Failure by a Grantee to comply with any requirements or written instructions issued by the Department pursuant to this subsection shall be considered a failure by the Grantee to resolve any "audit findings or performance problems" as that phrase is used in Section 7056(a)(2).

(6) Funding maximums from the Economic Development Allocation and the Planning Component shall be as set forth in Health and Safety Code Section 50832 subdivision (a) and Section 50833 subdivisions (a) and (b). The Department may waive the eight hundred thousand dollar ($800,000) and five hundred thousand dollar ($500,000) limitations for the Economic Development Allocation after September 1 of each year.

(7) All Economic Development Allocation funds returned, disencumbered or paid to the State in the form of program income ("returned funds") shall be made available to fund current–year applications to the Enterprise Fund or the OTC Component. On May 1 of each year, if there are any unawarded Enterprise Funds or OTC Component funds, including returned funds, the Department may reallocate funds between the components based on relative demand, notwithstanding the provisions in subsection (b) of this Section. On June 1 of each year, unawarded funds remaining in the Enterprise Fund, the OTC Component, or the Planning Component, including returned funds, shall be made available to fund unfunded applications submitted pursuant to Section 7072.

(8) Grants to eligible local governments may be passed through to qualified organizations chartered to perform economic development activities.

(9) Notwithstanding any other provision of this Section, the Director may alter the order applications are reviewed for applicants requesting funds for an urgent need such as an imminent plant closure, an emergency recognized by the State. The Director's decision to alter the order an application is reviewed shall be in writing and made part of the application file.

(b) Enterprise Fund. Economic Development Allocation funds set aside for use pursuant to this subsection shall be known as the California Community Economic Enterprise Fund (Enterprise Fund). The purpose of the Enterprise Fund is to provide a source of funds to establish or enhance local revolving loan fund programs. For the 1995 program year only, not more than fifty percent (50%) of the Economic Development Allocation funds shall be allocated to the Enterprise Fund. For all subsequent program years, not more than seventy percent (70%) of all Economic Development Allocation funds shall be allocated to the Enterprise Fund.

(1) At least seventy (70) days prior to the due date for applications, the Department shall notify all eligible cities and counties of the anticipated level of funding for the Enterprise Fund through a Notice of Funding Availability (NOFA) and the deadline for receipt of applications. The Department shall also make available application forms and a training manual which will provide eligible applicants with a consistent format for presenting proposals, information on proposal review factors, and guidance on program policies that may affect an applicant's program design.

(2) The maximum Enterprise Fund grant award to a single applicant in a program year shall not exceed $500,000, except as specified at 7062.1(a)(6). The Director may establish a lower maximum award through each year's NOFA. A decision to reduce the maximum award shall be based upon the relative demand for Enterprise Fund grants and OTC Component funds during the previous year and the total Economic Development Allocation funds available.

(3) Activities which are eligible for funding from a local revolving loan fund include, but are not limited to: construction loans; new equipment purchase loans; working capital loans; land acquisition loans; loan guarantees; loans for privately owned on-site improvements; grants for public off-site sewer, water and road improvements; and assistance to microenterprises.

(4) The cost-per-job created or retained for a grantee's aggregate activities proposed for funding from the Enterprise Fund shall not exceed $35,000 in CDBG funds, or $50,000 in CDBG funds per job created or retained for each activity. Any activity funded under this component shall meet the standards for public benefit set forth in subsection (f) of 24 CFR Section 570.482.

(5) Allocation Review Procedures and Evaluation Criteria.

(A) Each eligible applicant shall submit an original and two (2) copies of its application to the Department by the application deadline specified in the NOFA. Applications submitted by mail shall be received no later than the deadline. Applications delivered to the Department must be date stamped by the Department prior to 5 P.M. on the due date.

(B) In order to be considered complete, an application shall contain the information requested in the NOFA and such other information as necessary for the Department to evaluate the application using the points and rating factors set forth in subsection (b)(5)(D) of this Section. If an application contains a description or analysis which includes quantified information, the source of the information, and the method of computation shall be described. If the Department determines that the method of computation leads to conclusions which are inaccurate or misleading, it may, after consultation with the applicant, adjust the method of computation or the conclusions during the evaluation process.

(C) Within thirty (30) days of receipt of an incomplete application, the Department shall return the application to the applicant with a written explanation of the reasons why the application is incomplete.

(D) The Department shall evaluate, rate and rank each complete application utilizing the following evaluation criteria and assigned points:

Evaluation Criterion	
Need for Program:	*30 Total Points*
Relative Poverty Index	15 Points
Relative Unemployment Rate	10 points
Adverse Economic Event	5 Points
Local Program Capacity:	*50 Total Points*
Performance on Past CDBG ED Grants	20 points
Relative Strength of Basic Program Design	10 Points
Relative Experience of Program Operators	10 Points
Other Local Organizational Support	10 Points
Program Effectiveness:	*20 Points*
Commitment of Other (non-state, non-federal) Funding Sources	10 Points
Extent to Which Program Complements Local or Regional Economic Development Plan	10 points
Maximum Total Points	*100 Points*

(E) For purposes of this subsection (b)(5), the foregoing terms shall be defined or applied as follows:

1. "adverse economic event" shall mean an event of recent origin which has the effect of significantly reducing employment opportunities for the labor force within the applicant's jurisdiction.

2. "unemployment rate" shall mean the unemployment rate for the city or county applicant as measured by the applicant county's unemployment rate as published in the most recently available State Employment Development Department's "Monthly Labor Force For Counties".

3. Factors which shall be considered in assessing an applicant's performance on past CDBG grants shall include: Achievement of job creation or job retention objectives specified in the grant agreement; leveraging of other funds as specified in the grant agreement; and, timely expenditure of CDBG funds.

4. "basic program design" shall be evaluated as follows: The extent to which the applicant's program guidelines are consistent with CDBG program requirements and reflect prudent lending practices and procedures.

5. "other local organizational support" shall mean: The documented intent of local economic development organizations, such as local economic development corporations, Economic Development Districts, or Small Business Development Corporations, to commit resources towards implementation of the Enterprise Fund program.

(F) The Department shall complete the ranking of applications within eighty (80) days from the application deadline. Applicants shall be notified in writing of point scores, fund reservations and any adjustments necessary to comply with national objective or eligibility requirements. The Department may condition its award of funds in order to achieve the purposes of this subchapter and to ensure compliance with applicable State and federal requirements.

(G) Successful applicants shall receive a reservation of Enterprise Funds equal to the approved grant amount. These reserved funds shall be held by the Department pending drawdown requests for specific eligible activities.

(H) Successful applicants shall be subject to the requirements of Section 7076(d) in ensuring timely execution of the grant agreement and in the timing for incurring costs under the grant agreement.

(6) The assessment of a specific proposed activity's eligibility for funding for activities of $50,000 or less shall be performed by Grantee and reviewed by the Department as part of the grant monitoring process. The assessment of eligibility for specific activities over $50,000 shall be performed by the Department and shall occur prior to approval of the initial drawdown request for that activity.

(7) A Grantee's unused Enterprise Fund grant funds shall be disencumbered twenty-four months after grant agreement execution. The De-

partment may waive this provision in writing if it determines that compelling circumstances warrant the waiver. For purposes of this subsection only, for activities of $50,000 or less, funds shall be considered "unused" if not approved by the local loan committee for disbursement as a loan to a specified borrower; for activities over $50,000, funds shall be considered unused if the Department has not yet received complete documentation, as determined by the Department, of the proposed borrower's eligibility.

(8) Upon receipt of an application and based on availability of funds, the Director may allocate a portion of the Enterprise Funds to assist eligible jurisdictions directly affected by announced military base closures or reductions. Enterprise Funds shall be made available pursuant to this subdivision (b)(8) only if the Enterprise Funds will be used to obtain federal funds for capitalizing local revolving loan funds which will be used to mitigate the economic displacement caused by such base closures or reductions.

(c) Over-the-Counter Component. Economic Development Allocation funds not allocated to either the Enterprise Fund or the Planning Component shall be made available for award pursuant to this subsection (c), which shall be known as the "Over-the Counter-Component" or "OTC Component". Through the OTC Component, the Department shall provide grants to eligible cities and counties to: make loans to employers for an identified CDBG-eligible activity, provided the loan will result in the creation or retention of permanent jobs; or to construct infrastructure improvements which are necessary to accommodate the creation, expansion or retention of a business that will create or retain jobs.

(1) Through a notice of funding availability ("NOFA"), each program year the Department shall notify all eligible cities and counties of the anticipated level of funding for the OTC Component. OTC Component applications shall be accepted on a continuous basis.

(2) Awards from the OTC Component to a single city or county in a single program year shall not exceed $500,000, regardless of the number of applications, except as specified in subsection 7062.1(a)(6).

(3) Notwithstanding Section 7064(c), two or more applicants may submit a joint application for an OTC Component award. The maximum award for a joint application shall be five hundred thousand dollars ($500,000) per participating applicant per program year.

(4) In order to be considered complete, an application shall contain the information requested in the NOFA, and such other information as necessary for the Department to evaluate the application using the points and rating factors set forth in subsection (c)(7) of this section and the following information as appropriate:

(A) If an applicant contains a description or analysis which includes quantified information, the source of the information, and the method of computation shall be described. If the Department determines that the method of computation leads to conclusions which are inaccurate or misleading, it may, after consultation with the applicant, adjust the method of computation or the conclusions during the evaluation process.

(B) Evidence that activities proposed for funding meet one of the national objectives specified under Section 7056(b)(3) and detailed under 24 CFR Section 570.483.

(C) If an applicant asserts that an activity will meet the national objective of principally benefitting the TIG, the application shall include a description of the means of verification which the applicant will use to determine the number and income of those households actually benefitting from the program.

(D) A schedule demonstrating that any new jobs that will be generated by the program will be available within 24 months of execution of the grant agreement by the Department.

(E) For off-site public improvement activities, the application shall document the following: how the activity meets the national objective and public benefit requirements specified in 24 CFR Section 570.482(f); that the applicant has negotiated with the businesses and other beneficiaries that will be served by these improvements and obtained an appropriate funding contribution towards the cost of the improvements; and how the activity meets the requirements of paragraphs (2) and (3) of subsection (a) of this Section.

(5) The Department shall review applications based on order of receipt. Within thirty (30) days of receipt of an incomplete application, the Department shall notify the applicant in writing of the reasons why the application is incomplete.

(6) Within 60 days of the date an application is determined to be complete, the Department shall review the application for compliance with state and federal program requirements and provide the applicant, in writing, the Department's decision to approve or deny funding for the application. Applications eligible for funding shall be funded in order of receipt of a complete application.

(7) In making funding decisions, the Department shall first evaluate the application using the following factors and points as threshold criteria.

Factor	Points
(A) Percent of county-wide unemployment relative to the Statewide average	A maximum of twenty-five points
(B) Ratio of CDBG funds per job—maximum ratio of $35,000 per job created or retained	A maximum of fifteen points
(C) Ratio of private funds to CDBG funds	A maximum of fifteen points
(D) Quality of applicant's past performance for CDBG economic development contracts	A maximum of fifteen points
(E) Percent of funds allocated to applicant's general administrative costs (for this purpose, general administrative costs do not include funds budgeted for planning studies).	A maximum of ten points

(8) Applications which have received 50 or more points shall be reviewed for funding using the following factors:

(A) the extent of the applicant's need for CDBG funds,

(B) the market feasibility of the proposed activities,

(C) the feasibility of the proposed activities under local and other regulatory requirements,

(D) the financial feasibility of the proposed activities. (In analyzing this factor, the Department may determine that an activity is feasible even though other funding sources have not committed their funding to an activity. If the application documents the terms and conditions that will be offered by the other funding sources, then the Department may conditionally commit to funding. This commitment of funding by the Department shall be conditioned upon the final commitment from the other funding sources.),

(E) the capacity of the applicant and its borrower, subcontractors or subgrantees to manage the proposed activities,

(F) the appropriateness of the terms proposed by the applicant, given the documented needs of the business and given the amount of public benefit in the form of job creation or job retention that will result from the CDBG-assisted activity,

(G) the status of the ownership or control of any real estate needed for the proposed activities,

(H) the extent to which the proposed activities involve intrastate relocation of jobs or business, and

(I) the extent of recruitment, training and promotional opportunities for targeted income groups.

(d) Planning and Technical Assistance Component. Through the Planning and Technical Assistance Component ("Planning Component"), eligible cities and counties may apply for, and the Department may award, grants for economic development planning and technical assistance acti-

vities. No single city or county shall receive more than two grants or thirty five thousand dollars ($35,000) per year. Two or more applicants which share a planning program may submit a joint application. The maximum award for a joint application shall be thirty five thousand dollars ($35,000) per participating applicant.

(1) Eligible Activities. To be eligible for funding under the Planning Component, the proposed planning studies or technical assistance must assist or support an economic development activity which, if brought to completion, will meet a national objective as specified in 24 CFR Section 570.483 and result in job creation or retention. For purposes of this subsection (d)(1), an activity shall be considered as meeting the national objective of principally benefitting TIG persons if the applicant presents convincing information that at least fifty-one percent (51%) of the anticipated beneficiaries of the economic development activity assisted with funds provided by this component will be members of the TIG. General studies not reasonably related to an economic development activity likely to result in the creation or retention of jobs are not eligible for funding under the Planning Component; nor are activities related to implementation of a program.

(2) As a condition of receiving a commitment of funds under the Planning Component, successful applicants shall be required to provide a cash match the amount of which shall be based on the amount of the applicant's local sales and use tax revenues relative to the sales and use tax revenues for each potentially eligible city and county, up to a maximum of twenty-five percent (25%) of the CDBG grant award.

(3) Application Procedures and Evaluation Criteria. Each program year, the Department shall notify all eligible cities and counties of the anticipated level of funding for the Planning Component and the earliest date for submitting applications through a notice of funding availability ("NOFA"). The Department shall review Planning Component applications to determine if they meet minimum program eligibility and cash match requirements. The Department shall notify applicants, in writing, within 60 days of receipt of a complete application of the Department's funding determination. To be eligible for funding consideration, an application must meet the following requirements:

(A) The funding request shall contain all the information required in the NOFA and shall contain a certified resolution adopted by the governing body of the eligible jurisdiction documenting the availability of the cash match;

(B) The funding request shall be for an eligible activity and must meet a national objective as specified in 24 CFR Section 570.483; and

(C) If funds will be used to provide direct assistance to an identified business, the activity shall be considered to be technical assistance to a private, for-profit business and the application must include a letter from the benefitted business which: (i) explains why the benefitting business is unable to provide funding for the activity; and (ii) conditionally commits the business to proceeding with the activities which are the subject of the CDBG grant.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 50406, 50407, 50832, 50833 and 50834, Health and Safety Code; 42 U.S.C. 5304(b)(3), 42 U.S.C. 5305(a) and 42 USC 5306(d)(2) and (3); 24 CFR 570.482, 570.483, 570.489 and 570.493.

HISTORY

1. New section filed 1-19-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 3).
2. Repealer filed 2-22-85; effective upon filing pursuant to Government Code section 11346.2(d) (Register 85, No. 9).
3. Amendment filed 3-4-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 10).
4. Amendment filed 8-26-92 as an emergency; operative 8-26-92 (Register 92, No. 35). A Certificate of Compliance must be transmitted to OAL 12-24-92 or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 12-28-92 as an emergency; operative 12-28-92 (Register 93, No. 1). A Certificate of Compliance must be transmitted to OAL 4-27-93 or emergency language will be repealed by operation of law on the following day.
6. Amendment refiled 4-23-93 as an emergency, including additional amendments to subsections (d) and (e)(4); operative 4-27-93 (Register 93, No. 17). A Certificate of Compliance must be transmitted to OAL 8-25-93 or emergency language will be repealed by operation of law on the following day.
7. Amendment refiled 8-23-93 as an emergency, including additional amendment of subsection (d); operative 8-23-93 (Register 93, No. 35). A Certificate of Compliance must be transmitted to OAL by 12-21-93 or emergency language will be repealed by operation of law on the following day.
8. Editorial correction of HISTORY 6 (Register 93, No. 35).
9. Certificate of Compliance as to 8-23-93 order transmitted to OAL 9-16-93; disapproved by OAL and order of repeal as to 8-23-93 order issued on 10-29-93 pursuant to Government Code section 11349.6(d) (Register 94, No. 16).
10. Amendment of section filed 4-20-94; operative 4-20-94 (Register 94, No. 16).
11. Amendment of section and NOTE filed 11-8-95; operative 11-8-95 pursuant to Government Code section 11343.4(d) (Register 96, No. 48).
12. Amendment of subsections (b)(2), (b)(5)(A)-(B) and (d)(3) filed 4-26-2002; operative 4-26-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 17).
13. Amendment of subsection (a)(6) filed 4-25-2005; operative 5-25-2005 (Register 2005, No. 17).

§ 7062.2. Special Jobs Bill Provisions.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 USC 5306(d)(2) and (3); Public Law 98-8 (Emergency Jobs Bill); and 24 CFR 570.489.

HISTORY

1. New section filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Repealer filed 2-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).

§ 7062.3. Special 108 Loan Guaranty Pledges.

(a) Commitment of future federal allocations of CDBG Funds to the State ("State pledges") by the Department as collateral for federal guarantees of notes or other obligations issued by eligible cities and counties ("loan guarantees") pursuant to Section 108 of the Act (42 U.S.C. Sec. 5308) and 24 CFR Subchapter C, Part 570, Subpart M commencing with Section 570.700 (collectively, "Section 108") shall be subject to the following conditions:

(1) State pledges shall be given as collateral for loan guarantees only for loans of between $500,000 and $2,000,000.

(2) The total of all outstanding State pledges at any given point in time shall not exceed $16,000,000.

(3) To receive a State Pledge, in addition to the eligibility requirements established by Section 108 of the Act (42 U.S.C. Sec. 5308), an activity must: meet the eligibility requirements specified at Section 7062.1 subsection (a)(2) and (a)(3); and address one of the three CDBG national objectives specified in Section 7052 and as specified in 24 CFR Section 570.483.

(4) Applicants shall demonstrate a reliable repayment source and adequate security in the event the primary source of repayment defaults. The Department may require that the applicant city or county pledge other sources of repayment for the loan such as any local CDBG program income.

(5) State pledges shall not be committed as security for a guaranty which guaranty is the primary source of repayment for federally-issued securities.

(6) The proposed activity upon which the application for State pledges has been based shall be reviewed by the Department according to the HUD guidelines for financial underwriting referenced at Section 7062.1(a)(3).

(7) Any Loan Guaranty Pledges made pursuant to Section 7062.3 are excluded from any funding limitations set forth in this section or set forth at Health and Safety Code Section 50832(a).

(b) Application Procedures and Evaluation Criteria.

(1) To obtain a State pledge, eligible jurisdiction shall make a formal application in writing to the Department.

(2) Applications which have been determined by the Department to be complete shall be reviewed and a decision whether or not to issue a State pledge shall be made in writing within 60 days of the date of receipt of a complete application.

(3) In order to be considered complete, an application shall, at a minimum, include the following:

(A) the amount of the State pledge requested;

(B) sufficient information for the Department to determine that all of the conditions of subsection (a) of this Section have been met; and

(C) sufficient information to conduct the financial underwriting review required by subsection (a)(6) of this Section.

(4) An incomplete application shall be returned to the applicant with a written explanation as to the applicant's deficiencies.

(c) If the Department determines that the requirements of subsection (a) have been met, and that the activity underlying the application conforms to the underwriting standards of subsection (a)(6), the Department shall prepare and issue to the applicant a certification containing, at a minimum, the following statements:

(1) the State of California, acting by and through the Department, agrees to make a pledge of future CDBG grants for which the State may become eligible in the amount of the approved application as security for a loan guaranty from HUD in an equivalent amount;

(2) the Department possesses the legal authority to make such a pledge;

(3) at least seventy percent (70%) of the aggregate use of CDBG funds received by the State, guaranteed loan funds, and program income during the one, two, or three years specified by the Department for its CDBG program will be for activities that benefit low and moderate income persons; and

(4) the Department agrees to assume the responsibilities set forth in 24 CFR Section 570.710 requiring the Department to ensure that the applicant complies with all applicable federal requirements governing the use of guaranteed loan funds.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5308; and 24 CFR 570.700 et seq.

HISTORY

1. New section filed 11–8–95; operative 11–8–95 pursuant to Government Code section 11343.4(d) (Register 96, No. 48). For prior history, see Register 93, No. 47.

§ 7062.4. Use of Un–allocated Colonia Funds.

NOTE: Authority cited: Section 50406(h) and 50406(n), Health and Safety Code. Reference: Section 50407, Health and Safety Code; Sections 5305(a) and 5306(d), 42 U.S.C.; and Sections 570.489 and 570.204, 24 C.F.R.

HISTORY

1. New section filed 5–13–93 as an emergency; operative 5–13–93 (Register 93, No. 20). A Certificate of Compliance must be transmitted to OAL 9–13–93 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 93, No. 47).

§ 7062.5. Special Allocation for Disaster Assistance.

NOTE: Authority cited: Section 50833.1(d), Health and Safety Code. Reference: Section 50833.1, Health and Safety Code; Public Law 105–18; and HUD Disaster Recovery Final Rule (Fed. Reg. Vol. 62, No. 173, p. 47344 (Sept. 8, 1997)).

HISTORY

1. New section filed 3–12–98 as an emergency; operative 3–12–98 (Register 98, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–10–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7–9–98 as an emergency, including amendment of subsections (b) and (f)(3) and new NOTE; operative 7–9–98 (Register 98, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–6–98 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 46).
4. New section filed 11–12–98 as an emergency; operative 11–12–98 (Register 98, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–12–99 or emergency language will be repealed by operation of law on the following day.
5. Repealer filed 4–26–2002; operative 4–26–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 17).

§ 7064. Grant Funding.

(a) The amount of funds available for grants is equal to the total allocation of federal funds made available to the State under the Act after subtracting an allowable amount for State administrative costs. Grant funding is subject to the availability of federal funds.

(b) Eligible applicants may apply for funds to undertake any one or any combination of the eligible activities described in Section 7058.

(c) Except as provided in Section 7062.1, applicants may apply for funds from either one, two or three annual funding awards. The maximum grant amount per application for one funding award, regardless of the number of cities and counties included in the application, is five hundred thousand dollars ($500,000). The maximum grant amount per application for up to three annual funding awards regardless of the number of cities and counties included in the application, is one million, five hundred thousand dollars ($1,500,000). Funds applied for under Section 7062 are not included in these funding maximums. There is no maximum amount for applications submitted under Section 7062 other than the amount of funds set aside for this purpose. In the annual application process, priority for funding will be given to applicants that received prior State approval for a grant for the second or third year funding award. These priorities are subject to the availability of federal funds and the satisfactory performance by grantees. If federal funding to the State is insufficient to meet commitments for the second or third part of a two or three year funding award, the Department will establish a procedure for awarding available funds based on previous rankings and program performance.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Section 50832(a), Health and Safety Code; and 42 U.S.C. 5306(d)(2).

HISTORY

1. Amendment of subsection (c) filed 1–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment of subsection (c) filed 2–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
3. Amendment of subsection (c) and NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).
4. Amendment of subsection (c) filed 4–25–2005; operative 5–25–2005 (Register 2005, No. 17).

§ 7065. Emergency Program Amendments.

(a) A grantee may make a written request to the Department to amend or replace a project or activity set forth in a grant agreement with a project or activity which would alleviate existing conditions which pose a serious actual or impending threat to the health or welfare of the community.

(b) Notwithstanding any other provision of this Subchapter, the Department shall approve such a request and amend the grant agreement accordingly if the Department makes the following findings in writing:

(1) The grantee is located in an area for which the Governor has proclaimed either a "state of emergency" or a "local emergency", as those terms are defined in Government Code Section 8558, within 18 months of the grantee's application under this section.

(2) The replacement project or activity is designed to alleviate existing conditions which pose a serious actual or impending threat to the health and welfare of the community;

(3) The grantee is unable to finance the project or activity on its own, and other sources of funding are not available; and

(4) The replacement project or activity is otherwise eligible for funding under this Subchapter.

NOTE: Authority cited: Section 50406(h) and 50406(n), Health and Safety Code. Reference: Sections 50407 and 50825, Health and Safety Code; 24 CFR 570.208(c), 24 CFR 570.483(d); and 24 CFR 570.489(a)(1)(i).

HISTORY

1. New section filed 5–19–99 as an emergency; operative 5–19–99 (Register 99, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–16–99 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 98, No. 44.

§ 7065.5. Emergency Disaster Assistance.

(a) Notwithstanding any provision in this Subchapter to the contrary, in the event that the Governor proclaims either a "state of emergency" or a "local emergency," as those terms are defined in Government Code Section 8558, for a period not to exceed 18 months following the date of the proclamation, the Department may make program funds available through issuance of one or more special Notices of Funding Availability

("NOFAs") to otherwise eligible applicants located in the areas covered by the proclamation pursuant to the following special conditions:

(1) The project or activity shall be designed to alleviate existing conditions which pose a serious actual or impending threat to the health or welfare of the community.

(2) The applicant shall demonstrate that it is unable to finance the project or activity on its own and that other sources of funding are unavailable.

(3) The proposed project or activity shall be otherwise eligible for funding under this Subchapter, or eligible pursuant to HUD eligibility criteria related to the emergency.

(b) In order to address the most serious, emergent health, safety, and general welfare needs, the Department may adopt measures to direct funding awards to designated project or activity types, or areas. These measures may include, but are not limited to:

(1) Limiting a NOFA to a designated type of project or activity, or geographic area.

(2) Awarding bonus points within a NOFA to a designated type of project or activity, or geographic area.

(3) Reserving a portion of funds in a NOFA for a designated type of project or activity, or geographic area.

(4) Establishing maximum award amounts per applicant, type of project, or type of activity.

(5) Making funds available through an over-the-counter process, meaning the Department continuously accepts and evaluates applications until funds are exhausted.

(c) To the extent necessary to address the most serious, emergent health, safety and general welfare needs, and to expedite the process of making awards, the Department may alter or waive the evaluation criteria set forth in Section 7062.1 and Sections 7078 and 7078.7.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50406, 50407 and 50825, Health and Safety Code.

HISTORY

1. New section filed 4-5-2007 as an emergency; operative 4-5-2007 (Register 2007, No. 14). A Certificate of Compliance must be transmitted to OAL by 10-2-2007 or emergency language will be repealed by operation of law on the following day.

§ 7066. Procedure for Continuation of Funding.

(a) Grantees with prior State approval for two or three year funding awards shall notify the Department in writing by the final date for submitting applications of their intent to continue the second or third year part of their program. Failure by the Grantee to so notify the Department will be deemed a waiver of continued funding.

(b) Funding will be continued provided adequate funds have been received by the Department from HUD, and the Grantee has performed in accordance with the grant agreement. Disencumbrance of funds not expended in accordance with the grant agreement and the performance measures described in Sections 7078.4 and 7062.1(b)(7) shall constitute satisfactory performance under the grant agreement.

(c) For a single year funding award 24-month contract, a grantee that does not expend twenty-five percent (25%) of awarded dollars by the 12th month of the Program contract shall be sent a hold out letter for the next funding cycle. A waiver from hold out status may be granted if the grantee expends seventy-five percent (75%) of awarded dollars by the 18th month. If a grantee cannot make the 18th month expenditure milestone, the grantee may avoid hold out status and a reduction in points in future applications for failure to meet milestones if, at the Grantee's request, the Department disencumbers funds from the Program contract equal to the difference between what has been expended and 75% of awarded dollars.

(d) For each program activity with multi-year funding awards, if a grantee does not spend twenty-five percent (25%) of an annual funding award by the 12th month from award, the Department may disencumber the difference between what was expended for that program activity and the 25% milestone. If a grantee does not spend seventy-five percent (75%) of an annual funding award by the 18th month from award, the Department may disencumber the difference between what was expended and the 75% milestone. All unexpended funds remaining 24 months from an award shall be disencumbered by the Department. A grantee that has funds disencumbered after 24 months shall not be eligible to apply for any additional funding in future application cycles, other than for the original difference, if any, described in Section 7060 between the amount of the annual award that was disencumbered and the maximum annual award of $500,000.

(e) For a multi-year funding award for a single program specific activity, the grantee shall specify in its application the times that Program funding will be needed. Department staff shall assign milestones based on the project's timeline shown in the application and the Department's need for timely expenditure of CDBG funds. If a grantee does not meet the milestones assigned to the project, the Department may disencumber funds up to the designated milestone.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5306(d)(2) and (3); 24 CFR 570.489 and 570.491.

HISTORY

1. Repealer of former subsection (a) and relettering of subsections (b) and (c) to subsections (a) and (b) filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment of subsections (a) and (b) and new subsections (c)-(e) filed 4-25-2005; operative 5-25-2005 (Register 2005, No. 17).

§ 7068. Administrative Cost Limitation.

Grantees may expend up to seven and a half percent (7 1/2%) of the grant amount for administrative costs, provided that such amounts are justified for the type and complexity of the program, and that there are records to document these charges.

Activity delivery costs directly related to a specific activity are not part of the general administrative costs. For example, the cost of a housing rehabilitation specialist is a rehabilitation cost and the legal costs relating to property acquisition are acquisition costs.

Administrative costs may include, but are not limited to, the following categories:

(a) General administrative activities. Such costs for administration include:

(1) Salaries, wages, and related costs of the Grantee's staff engaged in general management, general legal services, accounting, and auditing.

(2) Travel costs incurred in carrying out the general management of the program.

(3) Administrative services performed under third-party contracts including contracts for such services as general legal services, accounting services, and audit services; and

(4) Other costs for goods and services related to the general management of the program including rental and maintenance of office space, insurance, utilities, office supplies, and rental or purchase of office equipment.

(b) Information and resources provided to persons in the targeted income group, and to citizen organizations participating in the planning, implementation, or assessment of the Grantee's program.

(c) Costs incurred for environmental studies, including historic preservation clearances, and specific environmental assessments and clearances related to the CDBG Program.

(d) Fair housing activities to facilitate compliance with the requirements of Section 7084.

(e) Community development planning activities.

If a cost cannot be associated with one of the above listed groups and cannot be associated with direct program costs, the Department shall upon the grantee's request make a determination of whether it is an administrative cost, a program cost, or an ineligible cost.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 570.489; and Section 50833(c), Health and Safety Code.

HISTORY

1. Amendment filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment of first paragraph and NOTE filed 7-31-96; operative 7-31-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7070. Contents of the Application.

Applications shall be submitted on forms prescribed by the Department and shall consist of the following items and any other information deemed necessary by the Department to judge the application. The specific forms and required information will be made available annually in the NOFA and accompanying application packet. This information provides the basis for the evaluation in Section 7078 and includes the assurances and agreements necessary for compliance with this subchapter. Where a description or analysis includes quantified information, the source of the information and the method of computation must be described. If the Department determines that the methods of computation are inaccurate or misleading, it may, after consultation with the applicant, adjust this information during the evaluation process.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Sections 50406 and 50407, Health and Safety Code.

HISTORY

1. Amendment filed 1–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment filed 2–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
3. Amendment of first paragraph, repealer of subsections (a)–(c)(5) and amendment of NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7072. Submission of General Allocation and Native American Applications.

At least seventy (70) days prior to the due date for applications, the Department will notify all eligible cities and counties of the anticipated level of funding for the State program, and will provide them with a schedule for filing applications. Applications must be received by the closing date. Each eligible applicant shall submit two (2) copies of its application to the Department.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489. Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5306(d)(2); 24 CFR 570.489.

HISTORY

1. Amendment filed 1–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment of section heading filed 2–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
3. Amendment filed 4–26–2002; operative 4–26–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 17).

§ 7074. Preliminary Review of Applications.

After the final date for the receipt of applications, the Department shall review each application for compliance with the provisions contained in Sections 7056 and 7070 and for a general understanding of the proposed projects. The Department will establish a schedule for applicants to respond to questions concerning their applications. These discussions will be recorded, and shall be limited to a discussion of the contents of the application. If there is a discrepancy between the applicant's written and oral statements, the written information in the application shall prevail. The Department may, in its sole discretion, request additional information to complete or clarify what is contained in the application.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5306(d)(2); 24 CFR 570.489.

§ 7076. Award of Funds.

(a) The Department will rate and fund applications based on all of the activities in the application. Preliminary scores for each of the rating factors set forth in Section 7078 will be totalled by the Department, and applications will be ranked according to point totals. In case of a tied score, the application with the most points for the factor in Section 7078(a) shall receive the higher ranking. If the score remains tied after this computation, the application with the most points for the factors in Section 7078(b) shall receive the highest rating. The Department will establish a preliminary funding cutoff score based on the total amount of funds available for grants. For applications above the cutoff score, the Department will evaluate the activities in each application to determine whether or not the total amount of funds requested for housing and related activities complies with the requirements of Section 7052, which states that at least fifty-one percent (51%) of the funds made available through the State CDBG program must be used for the purpose of providing or improving housing opportunities for the targeted income group, or for directly related purposes, such as the construction of infrastructure. Targeted income group residents receiving housing or housing related benefits as a result of grants available as of that date under Section 7062.1 shall be included in the calculation of compliance with this provision. If the requirement is not met in the preliminary ranking, the Department will determine a method of increasing the amount of funding for housing activities.

(b) In the event there are insufficient funds to fund an applicant's whole program, this applicant will be offered the amount of funds available, provided it is sufficient to complete all or a complete portion of an activity which, if evaluated separately, would have been awarded funds.

(c) The Department may condition its award of funds in order to achieve the purposes of this subchapter and to ensure compliance with applicable State and federal law.

(d) The Department will complete the ranking process within eighty (80) days from the final date for submitting applications. Applicants will be notified in writing of point scores, fund awards, any grant conditions, and any adjustments made to comply with the requirement in Section 7052 that at least fifty-one percent (51%) of the State program funds be used for housing development and related improvements. Successful applicants have thirty (30) days from the date grant agreements are mailed by the Department to execute the grant agreements and return them to the Department and to comply with the provisions in Section 7056. The Department shall return to grantees a fully executed copy of the grant agreement provided the State has received funding authorization from HUD. Grantees shall not incur costs against the grant agreement prior to the date the agreement is signed by the State without prior State approval. If the State has not received this authorization from HUD by the time the grantee has forwarded to the Department the grant agreement executed by the grantee, the Department may withhold their execution of the agreements until this authorization is received. In the event an approved applicant elects not to participate in the Program or does not comply with the provisions in Section 7056, the unfunded applicant receiving the highest score will be offered a grant award, provided the requirements of Section 7052 are met.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 50406, 50407 and 50828, Health and Safety Code; 42 U.S.C. 5306(d)(2); and 24 CFR 570.489.

HISTORY

1. Amendment filed 1–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment filed 2–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
3. Amendment of subsection (a) filed 4–26–2002; operative 4–26–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 17).

§ 7078. Evaluation Criteria.

All applications are given quantitative ratings and ranked against each other. In rating joint applications, information for the combined needs of all participating localities will be used for the purpose of evaluating these pursuant to this section. Points are assigned according to the criteria specified in Sections 7078.1, 7078.2, 7078.3, 7078.4, 7078.5, 7078.6, and 7078.7. The maximum score possible is 1,000 points. The total number of points in the rating system is allocated as follows:

(a) Poverty Index—a maximum of one hundred (100) points.

(b) Targeted Income Group Benefit—a maximum of three hundred (300) points.

(c) Need for Activity—a maximum of two hundred (200) points.

(d) Capacity—a maximum of one hundred and fifty (150) points.

(e) Performance—a maximum of one hundred and fifty (150) points.

(f) Leverage—a maximum of fifty (50) points.

(g) State Objectives—a maximum of fifty (50) points.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Sections 50406 and 50407, Health and Safety Code.

History

1. Amendment filed 2–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
2. Amendment of section and Note filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7078.1. Poverty Index (100 points).

The Department will compare all applicants in terms of the percentage of their population with incomes below the poverty level as defined in the latest available decennial census. The Department will compute individual scores by dividing each applicant's percentage of poverty persons by the highest percentage of poverty persons of any applicant and multiplying by 100. Applicants who elect to target their local program to fewer census tracts, or census block groups, than there are in their jurisdiction, shall receive scores based on either those targeted tracts or all the tracts, whichever results in a higher point score. In untracked counties, enumeration districts shall be used if the use of such data will result in a higher score for the applicant.

Note: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Sections 50406 and 50407, Health and Safety Code; and 42 U.S.C. 5306(d)(2).

History

1. Amendment filed 2–22–85; effective upon filing pursuant to Government Code Section 11346.2(d). (Register 85, No. 9).
2. Amendment of section and Note filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7078.2. Targeted Income Group Benefit (300 points).

All applications shall be scored and ranked using the following methodology:

Extent to which the projects and activities will benefit the targeted income group (TIG) (a maximum of 300 points). The Department will assign points for benefit based on the percentage of total program funds that would benefit the targeted income group. Applicants that demonstrate the greatest benefit to the targeted income group receive the most points.

(a) The method of computing the amount of funds that benefit the targeted income group will vary depending on the type of activity, as follows:

(1) For activities that provide benefits directly to individual households, such as housing rehabilitation activities, the methods of determining benefit are:

A. If there are income eligibility limits for the beneficiaries of the activity and these limits do not exceed the targeted income group limits for each household size, the percentage of benefit for this project or activity is 100.

B. If there are no income eligibility limits or if the income eligibility limits exceed the targeted income group limits, the number of households, by household size, within these limits shall be estimated by the applicant to determine the percentage of benefit. To receive scoring credit for the stated estimate, the application must describe the methodology used in arriving at the estimate. Statistically valid sampling or data from a reliable third party, such as the U.S. Census Bureau, will be accepted. The Department shall make available methodologies for conducting sampling which it considers statistically valid. Applicants using methodologies other than those described by the Department must demonstrate the validity of their alternative methodology. The Department, at its sole discretion, will assign a need score based upon methodologically sound data as contained within the application. In the absence of methodologically sound data, the Department may rely upon available census data to establish a score.

(2) For activities that provide services or benefits to residents of a geographic area rather than to individual households, such as a public facilities activity, the applicant's method of determining benefit will be to estimate the percentage of all households in the service area that have incomes below the targeted income group limits. If data for income is not available by household size, this estimate will be based on the targeted income group limit for a family of four. To receive scoring credit for the stated estimate, the application must describe the methodology used in arriving at the estimate. Statistically valid sampling or data from a reliable third party, such as the U.S. Census Bureau, will be accepted. The Department shall make available methodologies for conducting sampling which it considers statistically valid. Applicants using methodologies other than those described by the Department must demonstrate the validity of their alternative methodology. The Department, at its sole discretion, will assign a need score based upon methodologically sound data as contained within the application. In the absence of methodologically sound data, the Department may rely upon available census data to establish a score.

(b) The point score for the percentage of funds in each application that benefits the targeted income group will be computed by the Department for each activity as follows:

(1) The amount of funds to benefit the targeted income group for each activity is determined by dividing the number of households in this income group to be benefited by the total number of households to benefit from the activity and multiplying by the amount of funds requested for the activity.

(2) To compute the percentage of funds benefiting the targeted income group, the amounts determined for each activity are added together and divided by the total amount of requested funds. This number, multiplied by 100, is the overall percentage of funds benefiting households in the targeted income group.

(3) To compute the actual number of points to be awarded to the applicant, the number fifty–one (51) is subtracted from the overall percentage of households in the targeted income groups benefiting from the activity, and the result is multiplied by seven and sixty nine hundredths (7.69). This product is the number of points, rounded to the nearest whole integer, assigned the application for the extent of benefit to the targeted income group. If the product is 301 or more points, the amount of points awarded shall be 300 points.

Note: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Sections 50406 and 50407, Health and Safety Code; and 24 CFR 570.489.

History

1. Amendment filed 1–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment filed 2–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
3. Amendment of section heading, repealer of subsection (a) designator and amendment of first paragraph, redesignation of former subsections (a)(1)–(a)(1)(B) as subsections (a)–(a)(2), amendment of newly designated subsections (a)(1)B. and (a)(2), repealer of former subsection (a)(1)(C), redesignation of former subsections (a)(2)–(a)(2)(C) as subsections (b)–(b)(3), amendment of newly designated subsection (b)(3), renumbering of former subsection (b) to first paragraph of new section 7078.3, repealer of subsections (b)(1)–(b)(4)(G), and repealer and new Note filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).
4. Amendment of subsection (b)(3) filed 4–26–2002; operative 4–26–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 17).

§ 7078.3. Need for Activity (200 points).

The Department will assign points based on the seriousness of the locality's community development needs, and the impact the program will have on those needs using the following criteria:

(a) Need for community development assistance (200 points). The Department will evaluate each applicant's needs based upon the extent to which:

(1) The need for the program is well–documented, and the program addresses needs which are basic and serious;

(2) Most or all of the funds address basic and serious community development needs and these needs are more crucial than the needs of other applicants;

(3) The program resolves completely or to a large degree basic and serious community development needs.

(b) For the following activities, the Department shall evaluate the factors stated below in establishing a need score:

(1) For housing rehabilitation activities: The Department shall assess the relative condition of local housing stock based on data requested and described within the annual Notice of Funding Availability. The Department shall accept supplemental information regarding housing stock

condition. The Department shall assign competitive points based upon its evaluation of the supplemental data. An applicant may designate a target area wherein the rehabilitation will occur and data for those areas, in addition to community–wide information, will be evaluated in assessing need.

(2) For public works projects: The Department shall assess the relative severity of the health and safety problem to be addressed and the likelihood that the funds requested will substantially reduce or eliminate the problem. Those applications with strong third party documentation, including ranking on other agencies' funding lists, and orders from governmental agencies, will be more competitive.

(3) For new construction projects: The Department shall assess the relative need for new construction based on data requested and described in the annual Notice of Funding Availability. The Department shall accept supplemental information regarding new construction needs. The Department shall assign competitive points based upon its evaluation of the supplemental data.

(4) For community facilities and public services activities: The Department shall assess the relative need for community facilities and public services based on: (i) the severity of the problem being addressed; and (ii) the extent to which the proposed action would solve the problem. Those applicants providing strong third–party documentation of the problem, including but not limited to waiting list information, ranking on other agencies' funding lists, and orders from governmental agencies, will be more competitive.

The Department will evaluate the above factors and assign points based upon the relative severity of each factor among all applicant communities.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Sections 50406 and 50407, Health and Safety Code; and 24 CFR 570.489.

HISTORY

1. Renumbering of former section 7078.3 to new section 7078.6, new section heading, renumbering of former section 7078.2(b) to first paragraph of new section 7078.3, and new subsections (a)–(b)(4), closing paragraph and NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7078.4. Prior Performance Operating CDBG Grants (150 points).

(a) The Department shall rate applications based on the applicant's performance in administering non–economic development grants for grants funded within the four (4) program years preceding the program year under which the application has been submitted. Applicants that have not received a non–economic development grant during this period shall be rated on their capacity to administer a CDBG grant as set forth in section 7078.5 below.

(b) The Department shall give greater weight to performance under the general allocation and Native American grants than to performance under planning and technical assistance grants.

(c) The Department shall rate applicant's performance based on the following criteria:

(1) For a prior single year funding award 24 month contract, a competitive applicant will have expended at least twenty five (25%) of awarded dollars by the twelfth month of the Program contract and at least seventy–five percent (75%) by the eighteenth (18th) month.

(2) For each program activity with multi–year funding awards, a grantee that has more than 50% of a prior annual funding award disencumbered pursuant to subsection (c) of Section 7066 will be subject to negative performance points.

(3) For a project–specific multi–year funding award, a grantee that has had more than 50% of a prior annual funding award disencumbered pursuant to subsection (d) of Section 7066 will be subject to negative performance points.

(4) For all CDBG activities from open grants, the most competitive applicants will have expended a larger percentage of the awarded dollars than as set forth in this section.

(5) For all CDBG activities described within this section, competitive applicants will have expended all dollars and concluded all work by the date specified in the CDBG contract with the State. If there are delays in expenditures, circumstances must be described to the Department, in writing, at the time of the delay. If the Department previously has advised the jurisdiction in writing that there will be no performance consequences as a result of the delay, then the jurisdiction will not be at a competitive disadvantage.

(d) The Department shall also rate applications based on the applicant's timeliness in reporting to the Department, pursuant to Section 7110. The most competitive applicants will have submitted all required reports for past non–economic development grants to the Department in accordance with deadlines established and publicized by the Department. Such reports include, but are not limited to annual grantee performance reports, quarterly or other periodic reports, and close out reports.

(e) The Department shall also rate applications based on the applicant's timeliness in resolving audit and monitoring findings, if any. Where a jurisdiction demonstrates a good faith attempt to resolve outstanding issues, they will not suffer a competitive disadvantage.

(f) Applicants with no CDBG grant experience within the timeframe described in 7078.4(a), will be at no competitive disadvantage compared to those applicants who have met but not exceeded their milestones and will receive all of the available performance points, except those points awarded under Section 7078.4(c)(4).

(g) The Department shall also rate applications based on the applicant's timeliness in clearing special conditions or starting the project.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Sections 50406 and 50407, Health and Safety Code; and 24 CFR 570.489.

HISTORY

1. New section filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).
2. Amendment filed 4–26–2002; operative 4–26–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 17).
3. Repealer and new subsections (c)(1)–(3) filed 4–25–2005; operative 5–25–2005 (Register 2005, No. 17).

§ 7078.5. Capacity (150 points).

(a) If the applicant has administered a CDBG grant within the time frame set forth in paragraph 7078.4(a) above, they will be deemed to have some capacity to administer the proposed activity and will receive up to 100 points. If the applicant has not administered a CDBG grant within the time frame set forth in paragraph 7078.4(a) above, the application will be evaluated based on the following criteria:

(1) The applicant currently has staff with the capability or experience to administer the funds being applied for as demonstrated by resumes and descriptions of duties included as part of the application; or

(2) The applicant has contracted with, or will contract with a subcontractor that has the capacity or experience to administer the funds being applied for. The applicant shall include either an executed copy of a contract between the applicant and the subcontractor, or a copy of a signed letter of interest to enter into a contract from the proposed subcontractor.

(b) The applicant can demonstrate an increased level of capacity by completing and documenting actions that make the proposed project ready to proceed. Applicants that document actions or activity directly linked to the proposed project or program will be awarded up to 50 points. Readiness to proceed may be demonstrated by such factors as: documented commitments from all funding sources to the project; completion of environmental reviews; site control; procurement of a program operator.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Sections 50406 and 50407, Health and Safety Code; and 24 CFR 570.489.

HISTORY

1. New section filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).
2. Amendment filed 4–26–2002; operative 4–26–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 17).

§ 7078.6. Leverage (50 points).

(a) The Department shall rate applications based on private and local governmental commitments to provide additional resources which will be directly linked to the proposed project or program. To be considered for rating under this section, a commitment must be in writing, specify the dollar amount committed and, in the case of a governmental entity, be accompanied by an authorizing resolution from the governing board. Redevelopment agencies and counties providing resources to a city-sponsored program or project shall be considered local government for purposes of this section. Federal or state funds being passed through a private entity shall not be considered a commitment. For competitive purposes, the Department will evaluate private leverage by comparing committed dollars among applications for the same activity.

(b) For non-monetary commitments from a local government, such as a relaxation of regulatory requirements, the Department, in its sole discretion, shall rate each jurisdiction in comparison with its competitors on the extent to which they contribute to the project's objectives. For competitive purposes, the Department will evaluate local regulatory relief by comparing local actions among applications for the same activity.

(c) Local government commitments shall be separated into groups based on applicants' relative tax bases. Groupings shall be calculated annually based on the information on local revenues contained in the most recently published *Financial Transactions Concerning Cities and Counties of California* published by the State Controller. These groupings shall be announced in the annual Notice of Funding Availability.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Sections 50406 and 50407, Health and Safety Code; and 24 CFR 570.489.

HISTORY

1. Renumbering of former section 7078.3 to new section 7078.6, amendment of section heading, repealer of first paragraph and subsections (a)–(e) and NOTE and new subsections (a)–(c) and NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7078.7. State Objectives (50 points).

(a) The Department may award an application up to 50 points for addressing one or more state objectives as identified in the annual CDBG NOFA.

(b) Department selection of state objectives shall be based on one or more of the following:

(1) Emergent circumstances such as natural disaster or economic dislocation.

(2) Imbalance among the types of activities funded in prior years' awards such as housing rehabilitation programs compared to public infrastructure projects.

(3) Imbalance in the geographic distribution of funds in prior years' awards.

(4) Imbalance in the population served in prior years' awards such as smaller jurisdictions compared to larger jurisdictions, general program beneficiaries compared to special needs groups such as farm workers, under-trained work force, or historically unsuccessful or inactive applicants compared to active, successful applicants.

(5) Federal funding priorities as publicly announced by HUD.

(6) Housing and community development needs or objectives identified in the annual Consolidated Plan required by HUD.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5306(d)(2); and 24 CFR 570.483(b).

HISTORY

1. New section filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

Article 3. Other Program Requirements

§ 7080. Citizen Participation.

Each applicant shall provide opportunities for the participation of all persons who may be affected by the program, especially persons with incomes in the targeted income group. The opportunity to participate shall be available, at minimum, during the following phases of the program: program design and preparation of the application; the preparation of the annual performance report required in Section 7110; the preparation of any program amendments which constitute a reallocation of more than ten percent (10%) of the total program budget; and the preparation of any program amendments which constitute changes in policies, standards, or criteria for program implementation. A minimum of one public meeting is required at each of the program phases listed above. In addition, each applicant shall hold a minimum of one public hearing prior to submitting the application to the Department. The applicant shall provide for public notice prior to each meeting and public hearing and shall make program information available to the public prior to these meetings and hearings. Applicants shall use standard legal and other forms of notice including bilingual notice in areas with concentrations of non-English speaking minorities.

Applicants shall invite written comments on the proposed program and shall write a reply to any comments received. This written correspondence shall be maintained as a part of the public record and copies shall be submitted to the Department along with the application. The Department will respond within thirty (30) days to all correspondence written directly to the Department regarding an applicant's program. Applicants shall maintain a file of documents relevant to their block grant program, including proposed activities and final application, minutes of public meetings and hearings, copies of public notices and performance reviews; these documents shall be available to the public during normal working hours. Citizens shall be provided full and timely access to program records and information in a manner consistent with applicable laws regarding personal privacy and obligations of confidentiality.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5304(a) and (b), and 5306(d)(2); 24 CFR 570.489.

§ 7082. Environmental Reviews.

The grantee shall assume the responsibility for environmental review, decision-making and all other actions required under the California Environmental Quality Act of 1970 (CEQA), Public Resources Code 21000 et seq.; and the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq.

In order to ensure compliance with NEPA, grantees shall assume the responsibilities for environmental review and decision making following the procedures for "recipients" of Block Grant funds as set forth in 24 CFR, Part 58, entitled "Environmental Review Procedures for Title I Community Development Block Grant Programs." The Department shall assume the responsibilities set forth in Subpart C of 24 CFR, Part 58 and fulfill the State's role under Subpart J of 24 CFR, Part 58.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: Section 50406 and 50407, Health and Safety Code; Section 21000 et seq., Public Resources Code; 42 U.S.C. 4321 et seq.; 42 U.S.C. 5304(g)(4); and 24 CFR, Part 58.

HISTORY

1. Repealer of subsection (a) and subsection (b) designator and amendment of NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7084. Nondiscrimination.

(a) Discrimination prohibited. No person shall, on the grounds of race, color, religion, ancestry, marital status, physical handicap, national origin, sex, or any other arbitrary basis be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with CDBG funds made available pursuant to this subchapter. All grantees shall comply with the requirements contained in 24 CFR 570.601, 570.602, 570.607, 570.506(g).

NOTE: Authority cited: Section 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 570.506(g), 570.601, 570.602, 570.607.

HISTORY

1. Amendment of subsection (a), repealer of subsections (b)–(d)(2) and amendment of NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7086. Relocation and Acquisition.

The provisions of the Uniform Relocation Act, as amended, 49 CFR Part 24, and 42 U.S.C. 5304(d) shall be followed where any acquisition of real property is carried out by a grantee and assisted in whole or in part by funds allocated pursuant to this subchapter. In addition, where the rehabilitation of residential rental units results in increased rents for members of the targeted income group, the grantee shall also comply with the requirements of the above-cited sections of federal law. Relocation expenses which may, by law, be paid are eligible expenses for use of CDBG funds.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 42 U.S.C. 5304(d).

HISTORY

1. Amendment of section and NOTE filed 7-31-96; operative 7-31-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7088. Labor Standards.

(a) All laborers and mechanics employed by contactors or subcontractors on construction work assisted pursuant to this subchapter shall be paid by wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276(a) to 276(a)(5)), and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), and the contractors and subcontractors shall comply with all regulations issued pursuant to these Acts and with other applicable federal laws and regulations pertaining to labor standards. This section shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families. The Secretary of Labor has, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 133z-15), and Section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c))

(b) Grantees shall also assume all responsibilities for compliance with the provisions of Cal. Labor Code, Section 1720 et seq., regarding State labor standards compliance for Public Works as defined in Cal. Labor Code, Section 1720.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code: Section 1720 et seq. of the Labor Code; 18 U.S.C. 874; 40 U.S.C. 276(a) to 276(a)(5) and 276(c); 40 U.S.C. 327 to 333; 42 U.S.C. 5310; 24 CFR 570.489 and 570.496(c).

§ 7090. Architectural Barriers Act of 1968.

Every building or facility, other than a privately-owned residential structure, designed, constructed, or altered with funds made available pursuant to this subchapter, shall comply with the requirements of 24 CFR Parts 40 and 41 issued pursuant to the Architectural Barriers Act of 1968 (42 U.S.C. 4151).

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 4151; 24 CFR, Parts 40 and 41; 24 CFR 570.489.

§ 7092. Hatch Act.

Neither the Community Development Block Grant Program nor the funds provided therefor, nor the personnel employed in the administration of the program shall in any way or to any extent engage in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 5 U.S.C. 1501 et seq.; 24 CFR 570.489.

§ 7094. Lead-based Paint Poisoning Prevention Act.

CDBG grantees must comply with HUD's Lead-Based Paint Regulations (24 CFR, Part 35) issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831 et seq.) requiring prohibition of the use of lead-based paint, whenever funding awarded pursuant to this subchapter is used directly or indirectly by the grantee for construction, rehabilitation, or modernization of residential structures, elimination of immediate lead-based paint hazards in residential structures assisted pursuant to this subchapter, or the notification of the hazards of lead-based paint poisoning to purchasers and tenants of residential structures constructed prior to 1950 and funded under the CDBG program.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 4831 et seq.; 24 CFR, Part 35; 24 CFR 570.489 and 570.496(f).

§ 7096. Use of Debarred, Suspended, or Ineligible Contractors or Subrecipients.

CDBG funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage in the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR, Part 24. "Subrecipients" includes eligible entities under 24 CFR Part 570.204(a)(2) or private entities as described under 24 CFR 570.202(c)(1).

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 24 CFR, Part 24; 24 CFR 570.204(a)(2); 24 CFR 570.202(c)(1); 24 CFR 570.489.

Article 4. Grant Administration

§ 7098. Cash Depositories.

Grantees are not required to establish physical separation of cash depositories for State CDBG funds. Grantees shall establish and maintain all accounts in accordance with 24 CFR 570.489(d)(2)(iii) and 24 CFR 85.20 et. seq.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 570.489(d)(2)(iii) and 85.20 et. seq.

HISTORY

1. Amendment of section and NOTE filed 7-31-96; operative 7-31-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7100. Bonding.

Grantees shall comply with all bonding requirements described in 24 CFR 85.36(h).

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 85.36(h).

HISTORY

1. Amendment of section heading and first paragraph filed 3-4-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 10).
2. Repealer and new section and amendment of NOTE filed 7-31-96; operative 7-31-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7102. Retention and Custodial Requirements for Records.

The grantee shall retain financial records, supporting documents, statistical records, and all other records pertinent to a grant in accordance with 24 CFR 570.502(a)(16) and 24 CFR 85.42.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 570.502(a)(16) and 85.42.

HISTORY

1. Repealer of subsection (a) designator, amendment of former subsection (a), repealer of subsections (a)(1)-(e) and amendment of NOTE filed 7-31-96; operative 7-31-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7104. Program Income.

(a) "Program Income" means gross income earned by the grantee from grant-funded activities as defined in 24 CFR Section 570.489(e).

(b) Grantees shall account for and disburse program income related to projects financed in whole or in part with grant funds pursuant to 24 CFR Section 570.489(e).

(c) Grantees shall account for disbursement of program income annually or more frequently as required by the Department for cause.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 570.489(e).

HISTORY

1. Amendment filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).

2. Repealer of subsections (a)–(j), new subsections (a)–(c) and amendment of NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7106. Standards for Grantee Financial Management Systems.

Grantees shall establish and maintain their financial management systems for CDBG grants in accordance with 24 CFR 85.20 et. seq.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 85.20 et. seq.

HISTORY

1. Repealer of subsections (a)–(b), new section and amendment of NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7108. Financial Reporting Requirements.

Grantees shall report at least annually on financial matters as required by 24 CFR 85.41.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 85.41.

HISTORY

1. Amendment of subsections (a) (6) and (e) filed 1–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment of first paragraph, repealer of subsections (a)–(f) and amendment of NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7110. Monitoring and Reporting of Program Performance.

(a) Grantees shall monitor the performance of grant-supported activities to assure that time schedules are being met and the milestones in the work schedule are being accomplished. This review shall be made for each activity in the approved grant agreement.

(b) Each grantee shall prepare annual and periodic performance reports. Except as provided for in subdivision (d) below, performance reports shall not be required more frequently than quarterly unless warranted by special circumstances.

(c) The performance report for each activity shall describe the following:

(1) A description of actual accomplishments compared to the objectives established for the reporting period. In addition, where the results of activities can be quantified, unit costs shall be reported.

(2) Reasons why established objectives were not met.

(3) Other information such as a specific explanation of cost overruns or high unit costs.

(d) Between the required performance reporting dates, events may occur which have an impact upon the activity or program. In such cases, the grantee shall inform the Department in writing as soon as the following occur:

(1) Problems, delays, or adverse conditions which will affect the grantee's ability to attain program objectives, prevent the meeting of time schedules or goals, or preclude the attainment of work units by the established time period. This reporting shall be accompanied by a statement of the action taken or contemplated, and any assistance needed, to resolve the situation.

(2) Completion of each milestone in the work schedule.

(e) If a performance review conducted by a grantee discloses the need for change in the budget estimates in accordance with the criteria established in Section 7114, the grantee shall submit a request for budget revision pursuant to that section.

(f) The Department will make site visits to review program accomplishments and management control systems, and to or provide program assistance.

(g) The Department will review each grantee's performance to determine whether:

(1) the grantee has carried out the program as described in its application;

(2) the program complies with this subchapter and other applicable laws and regulations; and

(3) the grantee has the continuing capacity to complete the approved program according to time schedules approved by the Department.

If performance is found not to be in conformance with the grant application, agreement, or approved amendments, the Department may require corrective or remedial actions, or may recall or disencumber grant funds.

NOTE: Authority cited: Sections 50406(h) and 50406(n) and 50407, Health and Safety Code. Reference: 24 CFR 85.40.

HISTORY

1. Amendment of subsections (b) and (d) filed 2–22–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
2. Amendment of subsection (b) and NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7112. Grant Payment Requirements.

(a) Grant payment methods shall minimize the time elapsing between the disbursement by a grantee and the transfer of funds from the State to the grantee, whether such disbursement occurs prior to or subsequent to the transfer of funds.

(b) Grant payments are made to grantees by an advance or a reimbursement. An advance is a payment made by the State to a grantee upon its request before cash outlays are made by the grantee, subject to limitations provided in the grant agreement, and based on the type of grantee program. A reimbursement is a payment made to a grantee upon request for payment of costs already paid by grantee.

(c) Unless otherwise provided by regulation, the State shall not withhold payments for allowable charges made by grantees at any time during the grant period unless (1) a grantee has failed to comply with the grant agreement, or (2) the grantee is indebted to the State and collection of the indebtedness will not impair accomplishment of the objectives of any grant program sponsored by the Department. Under such conditions, the Department may, upon 15 days notice, inform the grantee that payments will not be made for obligations incurred after a specified date until the noncompliance is resolved or the indebtedness to the State is liquidated.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5306(d)(3)(A); 24 CFR 570.489, 570.494 and 570.497; and Office of Management and Budget (OMB) Circular A–102.

HISTORY

1. Amendment of subsection (b) filed 1–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).

§ 7114. Revision Procedures.

(a) "Cost categories," as used in this section, means any of the following: personal services, operating expenses, capital outlays, loans, grants or indirect costs.

(b) "Grant budget," as used in this section, means the approved financial plan to carry out the purpose of the grant program, or activity. It should be related to performance for program evaluation purposes.

(c) The grantee may not amend the program or activity in a manner which is inconsistent with the original basis for the award without the Department's written approval of the change. In addition, grantees shall request prior written approval from the Department when a program or budget revision will be necessary for the following reasons:

(1) Changes are to be made in the scope or the objective of the program or activity.

(2) Additional funding is needed.

(3) Amounts budgeted for indirect costs must be reallocated to absorb increases in direct costs.

(4) The need for transfers of funds among cost categories or activities when the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the activity budget. The same criteria shall apply to the cumulative amount of transfers among programs or activities when budgeted separately for an award, except that no transfer is permitted that would cause any grant appropriation, or part thereof, to be used for purposes other than those intended in the grant program; or

(5) When the Department awards a grant which provides support for both construction and nonconstruction work to make any Fund or budget transfers between the two types of work supported.

(d) Grantees shall notify the Department whenever the amount of authorized funds is expected to exceed the needs of the grantee by more than ten thousand dollars ($10,000).

(e) Within 30 days from the date of receipt of the request for grant budget and program revisions, the Department shall review the request and notify the grantee whether or not the revisions have been approved. If the revision is still under consideration at the end of 30 days, the Department shall inform the grantee in writing as to when the grantee may expect the decision.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5306(d)(3)(A); 24 CFR 570.489 and 570.497; and Office of Management and Budget (OMB) Circular A-102.

HISTORY

1. Amendment of subsection (b) (4) filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment filed 2-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).

§ 7116. Grant Closeout Procedures.

(a) The following definitions shall apply for the purpose of this section.

(1) "Grant closeout" is the process by which the Department determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the State.

(2) "Date of completion" is the date when all work under a grant is completed, or the date in the grant agreement, or any supplement or amendment thereto on which funding ends.

(3) "Termination of a grant" means the cancellation of funding, in whole or in part, at any time prior to the date of completion.

(4) "Suspension of a grant" is an action by the Department which temporarily suspends funding under the grant pending either corrective action by the grantee or a decision by the Department to terminate the grant.

(5) "Disallowed costs" are those charges to a grant which the Department determines to be unallowable.

(b) The grant closeout procedures include the following:

(1) Upon request, the Department shall make payments to a grantee for allowable reimbursable costs under the grant being closed out.

(2) The grantee shall refund to the Department any balance of unobligated cash advanced to the grantee that is not authorized to be retained by the grantee.

(3) Within 90 days after the date of completion of the grant the grantee shall provide the Department with all financial, performance, and other reports required as a condition of the grant. The Department may grant time extensions for cause when requested by the grantee.

(4) When authorized by the grant agreement, the Department may make a settlement for any upward or downward adjustments to the State share of costs after the reports are received.

(5) The grantee shall account for any property acquired in whole or in part with grant funds, in accordance with the provisions of Section 7118, pertaining to property management and Section 7104, pertaining to program income.

(6) In the event a final audit has not been performed prior to the closeout of the grant, the Department shall retain the right to recover the amount of disallowed costs after fully considering the recommendations of the final audit.

(c) The Department shall provide procedures to be followed when a grantee fails to comply with the agreement. When that occurs, the Department may, after notifying the grantee in writing, suspend the grant and withhold further payments, or prohibit the grantee from incurring additional obligations of grant funds, pending corrective action by the grantee or a decision to terminate in accordance with subdivision (d). The Department shall allow costs which the grantee could not avoid during the period of suspension provided that the costs meet the provisions of the U.S. Office of Management and Budget (OMB) Circular A-87.

(d) Grants may be terminated as follows:

(1) Termination for cause. The Department may terminate any grant, in whole or in part, at any time before the date of completion whenever the Department determines that the grantee has failed to comply with the conditions of the grant agreement. The Department shall promptly notify the grantee in writing of the determination, the reasons for the termination, and the effective date. Payments made to grantees or recoveries by the Department under grants terminated for cause shall be in accord with the legal rights and liabilities of the parties.

(2) Termination for convenience. The Department or the grantee may terminate a grant, in whole or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, and the portion of the grant to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date of the termination, and shall cancel as many outstanding obligations as possible. The Department will fund all eligible obligations that the grantee cannot cancel.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Sections 50406 and 50407, Health and Safety Code; 42 U.S.C. 5306(d)(3)(A); 24 CFR 570.489 and 570.497; and Office of Management and Budget (OMB) Circulars A-87 and A-102.

§ 7118. Property Management Standards.

Grantees shall adhere to the property management standards described in 24 CFR 85.30 et. seq.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 570.489(k) and 24 CFR 85.30 et. seq.

HISTORY

1. Amendment of subsection (c) filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment of subsection (b)(3) filed 2-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).
3. Repealer of subsections (a)-(g)(2), new section and amendment of NOTE filed 7-31-96; operative 7-31-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7120. Procurement Standards.

Grantees shall adhere to the requirements of 24 CFR 85.36.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 85.36; and 24 CFR 570.502(a)(12).

HISTORY

1. Amendment of subsections (h)(2) and (k)(8) filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment of subsections (f)-(f)(5) and NOTE filed 11-30-95; operative 12-30-95 (Register 95, No. 48).
3. Repealer of subsections (a)-(*l*), new section and amendment of NOTE filed 7-31-96; operative 7-31-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7122. Audit Requirements.

Grantees shall arrange for independent audits on all CDBG grants consistent with OMB Circular A-128.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 570.502(a); and Office of Management and Budget (OMB) Circular A-128.

HISTORY

1. Amendment of subsection (f) filed 1-19-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 3).
2. Amendment of subsections (c) and (d) filed 3-4-87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 10).
3. Repealer of subsections (a)-(f)(6), new section and amendment of NOTE filed 7-31-96; operative 7-31-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7124. Lump Sum Drawdown for Property Rehabilitation Financing.

Subject to the conditions prescribed in this section, grantees may draw funds from the Department in a single lump sum to establish a rehabilitation fund in one or more private financial institutions for the purpose of financing the rehabilitation of privately-owned properties as a part of the grantee's program.

The conditions prescribed for lump sum drawndown accounts are described in 24 CFR 570, Section 570.513.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code. Reference: 24 CFR 570.513.

HISTORY

1. Amendment filed 2-22-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 9).

2. New second paragraph, repealer of subsections (a)–(j) and amendment of NOTE filed 7–31–96; operative 7–31–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 31).

§ 7126. Conflict of Interest.

Grantees shall enforce standards for conflicts of interest which govern the performance of their officers, employees, or agents engaged in the award and administration of State CDBG grant funds. The standards for conflicts of interest shall prohibit any conflict of interest as defined in Title 24 Code of Federal Regulations Part 570.611 (as revised on 10–14–83) which is hereby incorporated by reference. The Department shall use the criteria and standards set forth in Title 24 CFR 570.611 in evaluating questions concerning potential conflicts of interest.

NOTE: Authority cited: Sections 50406(h) and 50406(n), Health and Safety Code; and 24 CFR 570.489(b). Reference: Section 50406(h) Health and Safety Code and 24 CFR 570.611 (90–14–83 edition).

HISTORY

1. New section filed 3–4–87; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 87, No. 10).

Subchapter 3. Farmworker Housing Grant Program

Article 1. General

§ 7200. Purpose and Scope.

These regulations set forth the policies and procedures governing the management and use of the Joe Serna, Jr. Farmworker Housing Grant Fund established by Section 50517.5 of the California Health and Safety Code.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Repealer of Subchapter 3 (Sections 7200–7242) and new Subchapter 3 (Sections 7200–7242 not consecutive) filed as an emergency 7–1–80; effective upon filing Certificate of Compliance included (Register 80, No. 27).
2. Amendment filed 2–10–83; designated effective 3–4–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
3. New article 1 heading and amendment of section heading and section filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7201. Uniform Multifamily Underwriting and Program Rules.

(a) The following sections of title 25, Division 1, Chapter 7, Subchapter 19 are hereby incorporated by reference into this subchapter and shall apply to rental housing developments receiving assistance from the Fund.

(1) Section 8302. Restrictions on Demolition;
(2) Section 8303. Site Control Requirements.
(3) Section 8304. Unit Standards;
(4) Section 8305. Tenant Selection;
(5) Section 8306. Tenant Recertification and Unit Mix Maintenance;
(6) Section 8307. Rental Agreement and Grievance Procedure;
(7) Section 8310. Underwriting Standards;
(8) Section 8311. Limits on Development Costs;
(9) Section 8312. Developer Fee.
(10) Section 8313. Reserved.
(11) Section 8314. Use of Operating Cash Flow.
(12) Section 8315. Subordination Policy.
(13) Section 8316. Leasehold Security.

(b) For purposes of this section 7239 and subsections (b) and (c) of section 7234, the definitions found in Section 8301 shall apply.

(c) In the event of a conflict between the provisions of Subchapter 19 and this Subchapter 3, the provisions of this Subchapter 3 shall prevail.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering of former section 7239 to new section 7201, including amendment of subsection (a), filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7202. Definitions.

In addition to the definitions found in Chapter 2 (commencing with Section 50050), of Part 1 of Division 1 of the Health and Safety Code, the following definitions and, for rental housing developments only, those found in the Uniform Multifamily Regulations ("UMRs") (Chapter 7, subchapter 19, Section 8301), shall apply to this subchapter. In the event of a conflict between the following definitions and those found in the UMRs, the following definitions prevail for the purpose of this subchapter. References to code sections refer to sections of these regulations unless otherwise noted:

(a) "Agricultural employment" means employed in the cultivation and tillage of the soil; the production, cultivation, growing and harvesting of any agricultural or horticultural commodities; the raising of livestock, bees, furbearing animals, or poultry; dairying, forestry, and lumbering operations; and any work on a farm as incident to or in conjunction with such farming operations, including the delivery and preparation of commodities for market or storage.

(b) "Agricultural household" means an agricultural worker or workers and other persons who reside or will reside with an agricultural worker in an assisted unit.

(c) "Agricultural worker" means an individual who derives or prior to retirement or disability derived a substantial portion of his/her income from agricultural employment.

(d) "Applicant" means an organization that applies for a loan and/or grant from the Fund.

(e) "Assistance" means a loan and/or grant provided from the Fund to an applicant, or a grant made directly to an agricultural worker.

(f) "Assisted unit" means a residential housing unit that is purchased, developed or rehabilitated with assistance from the Fund and is subject to the occupancy, resale, or rent restrictions imposed by this Subchapter.

(g) "Award" means a commitment of money from the Fund in the form of a grant or a loan that is made to a recipient by the Department.

(h) "Borrower" means an eligible organization that has applied for, or has received approval for, a loan from the Fund. The term "borrower" shall include successors in interest and assignees of a borrower.

(i) "CalHFA" means the California Housing Finance Agency.

(j) "Cash investments" include but are not limited to:

(1) Recipient's cash contribution;
(2) Private financial assistance;
(3) Local public entity financial assistance;
(4) State financial assistance from programs other than the Fund;
(5) Federal government financial assistance.

(k) "Department" means the California Department of Housing and Community Development.

(l) "Fiscal Integrity," with respect to a Rental Housing Development, means that the total Operating Income plus funds released pursuant to the Regulatory Agreement from the operating reserve account is sufficient to: (1) pay all current Operating Expenses (including asset management fees and deferred developer fees, if permitted by the Regulatory Agreement); (2) pay all current debt service (excluding deferred interest); (3) fully fund all reserve accounts (other than the operating reserve account) established pursuant to the Regulatory Agreement; and (4) pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the permitted annual Distributions shall not be considered in determining Fiscal Integrity.

(m) "Fund" means the Joe Serna, Jr. Farmworker Housing Grant Fund.

(n) "Grant" means a commitment of money from the Fund in the form of a grant that is made to a grantee by the Department.

(o) "Grantee" means an eligible organization that has applied or has received approval for a grant from the Fund. The term "Grantee" shall include successors in interest and assignees of a grantee.

(p) "Grant Agreement" means the written agreement between the department and the developer of a rental housing development receiving a grant or the developer of an ownership housing project, as more fully described in Section 7226, ensuring compliance with construction, financial and program obligations.

(q) "Housing cost"—for homeownership, see Title 25, California Administrative Code, Section 6920.

(r) "Housing development" means residential housing and related support facilities necessary to such housing that receives assistance from the Fund and includes assisted housing units.

(s) "In-kind contributions" include but are not limited to contributions directly related to the housing development in the form of:

(1) labor and/or other eligible services;

(2) land and/or site development;

(3) existing structures;

(4) materials.

(t) "Limited Partnership" means a "limited partnership" as defined in Section 171.5 of the Corporations Code and in which each general partner is a nonprofit public benefit corporation, a limited liability company where all the members are nonprofit public benefit corporations, or a combination of both.

(u) "Local public entity" means any county, city, city and county, redevelopment agency or public housing authority, and also includes any state agency, public district or other political subdivision of the state, and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low income. It also includes the governing body or housing authority of a federally recognized Indian tribe. It also includes two or more local public entities acting jointly.

(v) "Low/lower income household"—see Title 25, California Administrative Code Section 6928.

(w) "Manufactured housing" means a mobilehome, as defined by Health and Safety Code Section 18008.

(x) "Matching share" means the proceeds of loans, cash investments, or in-kind contributions that the recipient commits to the total development or rehabilitation cost of the housing development. The Department will determine the valuation and eligibility of a proposed matching share where necessary.

(y) "Net income"—see Title 25, California Administrative Code, Section 6916.

(z) "NOFA" is the acronym for Notice of Funding Availability. The NOFA is the document used by the department to announce that funds are available and applications may be submitted.

(aa) "Nonprofit Corporation" means the same as "nonprofit corporation" defined in Health and Safety Code Section 50091.

(bb) "Program" means the Joe Serna, Jr. Farmworker Housing Grant Program.

(cc) "Project" means: the acquisition, rehabilitation, and/or construction of a rental housing development; or the construction of single-family homes where the title to the homes will be transferred to an Agricultural Worker.

(dd) "Project organization or planning costs" include developer fees.

(ee) "Recipient" means an eligible organization that has applied or has received approval for an award of funds in the form of a grant or loan from the Fund. The term "Recipient" shall include successors in interest and assignees of a recipient.

(ff) "Regulatory Agreement" means the written agreement between the Department and a Borrower that will be recorded as a lien on the rental housing development to control the use and maintenance of the project, including restricting rent and occupancy of assisted units.

(gg) "Rehabilitation" means repairs and improvements to a dwelling unit necessary to make it a modest, decent, safe, and sanitary dwelling which meets applicable state and local building and housing standards mandated by the enforcement agency.

(hh) "Related support facilities" include but are not limited to:

(1) water and sewer facilities and other utilities directly related to the proposed housing development.

(2) physical improvements for child care services, recreational activities, meeting room(s) all of which are intended for use of project residents.

(3) solar and other alternative energy efficient systems.

(ii) "Rental Housing Development" means the same as "Rental Housing Development" as defined in subsection (o) of Section 8301.

(jj) "Rural Development" or "RD" means the United States Department of Agriculture acting through the Rural Housing Service, formerly knows as the Farmers Home Administration.

(kk) "Subsequent Grant Agreement" means the written agreement between the Department and an Agricultural Household purchasing an owner-occupied unit used to ensure compliance with Program requirements as further described in Section 7228.

(*ll*) "Very low income"—see Title 25, California Administrative Code, Section 6926.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment of definitions of "Grant" and "Grantee" and repealer of definition of "Nonprofit corporation" filed 10-1-2002; operative 10-1-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 40).
3. Amendment filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

Article 2. Program Requirements

§ 7204. Project Eligibility Requirements.

Program funds may only be expended for housing developments that meet the following criteria:

(a) The housing development must contain assisted units to be occupied by agricultural households.

(b) To the greatest extent possible, assisted units are to be occupied by lower-income agricultural households.

(c) To the greatest extent possible, any non-assisted units are to be occupied by agricultural households.

(d) Assisted units in a rental housing development required to be made available to lower-income households pursuant to Section 7209 are to be made available at affordable rents as defined in Health and Safety Code Section 50053.

(e) When grant funds are to be used for homeownership purposes, assisted units shall be newly constructed, and are to be made available to lower-income households at a total monthly housing cost not to exceed 35% of monthly net income.

(1) An eligible household's monthly housing costs may exceed 35% of monthly net income if all of the following conditions are satisfied:

(A) the proposed housing costs are approximately the same as the present housing costs of the household, and

(B) a satisfactory credit record has been maintained by the households, and

(C) the household has demonstrated an ability to sustain its present housing expense without serious difficulty.

(2) In the alternative, a different standard can be applied if it has otherwise been determined by the Department that the eligible household can assume greater responsibility for monthly housing costs.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment of subsection (a)(3) filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).
3. New article 2 heading and amendment of section heading and section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7205. Applicant Eligibility Requirements.

(a) To be eligible to apply for funding, the applicant shall be a local public entity, nonprofit corporation, limited liability company, or limited partnership. In the case of a nonprofit corporation, limited liability company, or limited partnership, the applicant shall demonstrate to the department's satisfaction that the applicant is independent from any direction of, or control by, a for-profit entity and shall meet the requirements of Section 7205.1.

(b) To be eligible to receive funding, the applicant shall demonstrate to the Department's satisfaction that:

(1) It has the ability to timely proceed with the construction or rehabilitation of the development or program upon commitment of Program funds; and

(2) It has sufficient experience and organizational capacity to carry out the activity for which Program funds are being requested. In the case of a rental housing development, the applicant shall have:

(A) Successfully developed and owned a minimum of one rental housing project; and/or

(B) Have a staff with demonstrated experience in developing and owning a minimum of one rental housing project.

(C) Have a staff with demonstrated experience in managing a rental housing development occupied primarily by agricultural workers and their families.

(c) To be eligible to receive a commitment of funds to provide direct grants to Agricultural Employees for the purchase of a new conventionally constructed homes, or rehabilitation of existing owner-occupied housing, the Applicant shall demonstrate to the Department's satisfaction that it is sponsoring and supervising the program of rehabilitation or construction.

(d) To be eligible to receive funding for the purchase of Manufactured Homes not placed on a permanent foundation, the Applicant shall demonstrate to the Department's satisfaction that it is operating, or will operate using Program funds, a program to address and remedy the impacts of current and potential displacement of Agricultural Households from existing labor camps, mobilehome parks, or other housing due to governmental actions to enforce health and safety laws including, but not limited to the Mobilehome Parks Act and the Employee Housing Act.

NOTE: Authority cited: Sections 50406 and 50517.5, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7205.1. Limited Partnership Eligibility Requirements.

(a) To be eligible to apply for funding, a limited partnership shall demonstrate to the Department's satisfaction that it is controlled by a nonprofit public benefit corporation, limited liability company, or a combination of both. If the limited partnership is controlled by a limited liability company, the limited liability company shall demonstrate to the Department's satisfaction that it is controlled by a nonprofit public benefit corporation.

(b) In making its determination, the Department shall consider the limited partnership agreement, any limited liability company operating agreement, the articles and bylaws of any nonprofit corporation, and any pertinent side agreements between limited and general partners relating to the management and operations of the limited partnership (collectively, "organizational documents").

(c) In order to demonstrate control, a nonprofit corporation or limited liability company must have the authority to perform substantially all of the following functions, as shown in the organizational documents:

(1) Employ and maintain a staff that has the experience and ability to perform the responsibilities and functions of the partnership.

(2) Rent, maintain and repair the rental housing development or, if such duties are delegated to a property management agent, hire and oversee the work of the property management agent.

(3) Hire and oversee the work of all persons necessary to provide services for the management and operation of the limited partnership business.

(4) Execute and enforce all contracts executed by the limited partnership.

(5) Execute and deliver all partnership documents on behalf of the limited partnership.

(6) Prepare or cause to be prepared all reports to be provided to the partners and lenders on a monthly, quarterly, or annual basis consistent with the requirements of the limited partnership agreement.

(7) Coordinate all present and future development, construction, or rehabilitation of the rental housing development that is the subject of the limited partnership agreement.

(8) Monitor compliance with all government regulations and file or supervise the filing of all required documents with government agencies.

(9) Acquire, hold, assign or dispose of partnership property or any interest in partnership property.

(10) Borrow money on behalf of the limited partnership, encumber limited partnership assets, place title in the name of a nominee to obtain financing, prepay in whole or in part, refinance, increase, modify or extend any obligation.

(11) Pay organizational expenses incurred in the creation of the partnership and all operational expenses.

(12) Determine the amount and timing of distributions to partners and establish and maintain all required reserves.

NOTE: Authority cited: Sections 50406 and 50517.5, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7205.2. Nonprofit Corporation Eligibility Requirements.

For all applicants, where a nonprofit corporation is part of the ownership structure, the involved nonprofit corporation shall meet the following requirements:

(a) The articles and by laws shall clearly demonstrate that the corporation's authorized mission includes the provision of affordable or low-income housing.

(b) Any fees earned as a general partner shall remain with the corporation. No fees shall be assigned to a for-profit organization.

(c) The partnership agreement shall be structured to permit the nonprofit corporation to eventually purchase the rental housing development.

NOTE: Authority cited: Sections 50406 and 50517.5, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7205.3. Agricultural Employee Eligibility Requirements.

(a) To be eligible to receive a grant for purchase of a newly constructed home, or rehabilitation of an existing home, an Agricultural Employee shall be a participant in the program described in Section 7205 subsection (c).

(b) To be eligible to receive a grant for the purchase of a Manufactured Home, an Agricultural Employee shall demonstrate that he or she has been displaced, or is facing displacement, from existing labor camps, mobilehome parks, or other housing due to governmental actions to enforce health and safety laws including, but not limited to the Mobilehome Parks Act and the Employee Housing Act.

NOTE: Authority cited: Sections 50406 and 50517.5, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7206. Eligible Activities.

Subject to all applicable requirements of this subchapter, Program funds may be used for the following activities:

(a) Rehabilitation, acquisition and rehabilitation, or construction of a Rental Housing Development.

(b) Single-family new construction in which the ultimate Grantees are participants. Title to the development property may be held in the name of the recipient until completion of construction of the individual home, or title to the development property may be transferred to a Grantee prior

to or during construction. Development may be on contiguous lots or on scattered sites.

(c) Owner-occupied rehabilitation.

(d) Acquisition of Manufactured Homes not installed on permanent foundations as part of a program to address and remedy the impacts of current and potential displacement of farmworker families from existing labor camps, mobilehome parks, or other housing.

(e) Migrant farmworker assistance as permitted under subdivision (c) of Section 50517.10 of the Health and Safety Code.

NOTE: Authority cited: Sections 50406 and 50517.5, Health and Safety Code. Reference: Sections 50517.5 and 50517.10, Health and Safety Code.

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Renumbering of former section 7206 to section 7209.5 and new section 7206 filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7207. Site Control Requirements.

(a) For a Rental Housing Development, at the time of Application the Applicant shall have site control pursuant to Section 8303.

(b) For a single-family Project, at the time of Application, the Applicant shall have site control pursuant to either subsection (a), (c), (d), (e), or (f) of Section 8303, or pursuant to a ground lease. If the project will be on a lease, the terms and conditions of the proposed lease shall permit the lessee to make improvements on and encumber the property, and permit compliance with all requirements of this subchapter.

(c) Grants by the department to individual Agricultural Workers shall not be disbursed unless and until the Agricultural Worker is the fee owner of the real property, the lessee under a lease, or, in the case of a Manufactured Home not on a permanent foundation, is the registered owner.

NOTE: Authority cited: Sections 50406 and 50517.5, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7208. General Requirements.

(a) Matching Share. Before the Department will make a firm commitment for a grant or a loan, an applicant must demonstrate to the satisfaction of the Department that it can and will provide for the housing development a matching share at least equal to the offered grant or loan; or in the case of an application for not more than five hundred thousand dollars ($500,000), the applicant demonstrates to the department's satisfaction its inability to secure adequate financing from other sources.

(b) Architectural and Engineering Requirements. Housing developments not involving a public lender or insurer of loans shall be subject to a Departmental review of the architectural and engineering aspects of the project.

(c) Non-Discrimination and Affirmative Action. Recipients must agree not to discriminate on account of race, sex, age, marital status, physical disability, creed, religion, or national origin and to abide by all local, state and federal regulations precluding such discrimination. Moreover, recipients must agree to adopt and implement affirmative action programs to cover all aspects of the construction, rehabilitation, marketing, and management of the housing developed with the assistance of the Fund.

(1) Recipients will be required to execute certificates of nondiscrimination.

(2) Recipients will be required to adopt and implement affirmative action programs approved by the Department.

(d) Local, State or Federal Requirements. Recipients are required to abide by such local, state or federal rules and regulations as are applicable to the proposed housing development. These may include but are not limited to: zoning ordinances, building and housing codes; planning; historical preservation, environmental, tenant occupancy, and relocation regulations; and applicable federal requirements.

(e) Reports. Recipients are required to provide the Department with periodic reports on the progress of the housing development and the expenditure of grant and/or loan funds from the date of grant and/or loan approval to date of completion of the housing development and occupancy by agricultural households. Recipients are also required to provide the Department with reports on the characteristics of the housing development and its occupants.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Amendment filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment of section heading and section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7209. Minimum Number of Assisted Units and Affordability.

(a) For a Rental Housing Development, Assisted Units shall be provided shall be as follows:

(1) When Program funds amount to less than twenty-five percent (25%) of the total development/rehabilitation cost or value of a project, whichever is applicable, for every one percent (1%) of the total development/rehabilitation cost or value which Program funds constitute, a minimum of two percent (2%) of the total number of units of the housing development shall be designated as assisted units restricted to occupancy by agricultural households.

(2) When the funds amount to twenty five percent (25%) or more of the total development/rehabilitation cost or value of a housing development, the number of assisted units restricted to occupancy by agricultural households shall be directly proportional to the percentage of Program funds awarded to the total development/rehabilitation costs, but not less than fifty percent (50%) of the total number of units in the housing development.

(3) To the greatest extent possible consistent with fiscal integrity, at least ten percent (10%) of the assisted units shall be reserved for agricultural households with incomes no greater than thirty percent (30%) of area median income (AMI). These units shall be distributed reasonably among bedroom sizes. The remaining ninety percent (90%) of assisted units shall be reserved for agricultural households with incomes no greater than 80% of AMI.

(4) Rent limits for initial occupancy and for each subsequent tenancy by a new eligible household shall apply to all assisted units in accordance with subdivision (b) of Health and Safety Code Section 50053.

(5) In the event that the agricultural worker population in a Rental Housing Development falls below the minimum number required to occupy the housing development either through change of status or by persons leaving the housing development, the recipient shall implement an affirmative marketing plan which will recruit other agricultural households as units become available until the minimum number is once again in occupancy.

(b) For homeownership housing developments, where program funds are used for subdivision development costs, the percentage of assisted units shall not be less than the percentage of the total development cost or value which Program funds constitute.

NOTE: Authority cited: Sections 50406 and 50517.5, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7209.5. Eligible Expenditures.

(a) The costs which may be paid from Program funds for the rehabilitation or construction of conventionally constructed housing are only those which are approved by the Department as reasonable and necessary for the construction or rehabilitation of the housing development, including, but not limited to, the following:

(1) The cost of refinancing or acquiring land and any buildings thereon, including payments for commissions, options, deposits, or contracts to purchase properties on a proposed housing development site or payments for the purchase of such properties.

(2) The cost of site preparation, demolition, and clearing.

(3) Architectural, engineering, legal, accounting, packaging and other fees paid or payable in connection with the planning, execution, and financing of a housing development and the finding of an eligible mortgage for a housing development.

(4) The cost of necessary reports, studies, surveys, plans, permits, and fees.

(5) The cost of insurance, interest and financing, tax and assessment costs, and other operating and carrying costs incurred during construction or rehabilitation.

(6) The cost of construction or rehabilitation of the housing development and related support facilities including material, direct labor, and actual construction supervision.

(7) The cost of land improvements, including, but not limited to, landscaping, site preparation and streets, sewers, utilities, and other offsite improvements, whether or not such costs are paid in cash or in a form other than cash.

(8) A reasonable profit in addition to job overhead to the general contractor and subcontractors.

(9) An allowance for reasonable reserves set aside to defray unanticipated additional development or rehabilitation costs and operating costs during the initial years of occupancy of the housing development.

(10) Repayment of a predevelopment loan made by a public entity or nonprofit corporation incorporated in any state or the District of Columbia.

(11) The cost of developing or modifying a housing development or structure so that it is accessible to and convenient for the elderly or disabled.

(12) The cost of such other items, including tenant and homeowner relocation and tenant and homeowner counseling, as the Department shall determine to be reasonable and necessary for the development or rehabilitation of a housing development.

(13) The cost of solar and other energy efficient alternative systems.

(b) The costs which may be paid from Program funds for the purchase of a Manufactured Home are only those which are approved by the Department as reasonable and necessary for the acquisition and installation of the Manufactured Home including, but not limited to, the following:

(1) Purchase of the Manufactured Home including taxes and registration fees; and

(2) Delivery, installation, and set-up charges;

(c) Unauthorized Costs. Program funds shall not be used for:

(1) A recipient's project organization or planning costs including, but not limited to, administrative costs or developer fees.

(2) Downpayment assistance.

(d) Special Limitations. The following limitations on eligible expenses will apply.

(1) Engineering Fees. These fees must not exceed prevailing rates unless an unusual engineering situation exists and is substantiated. Normally, the engineering fees allowable under RD and/or HUD-FHA schedules and practices will provide the upper limit for such cost expenditures.

(2) Architectural Fees. These fees must not exceed prevailing rates unless an unusual architectural situation exists and is substantiated. Normally, the architectural fees allowable under RD and/or HUD-FHA schedules and practices will provide the upper limit for such expenditures.

(3) Grant or Loan Packager Fees. Program funds may be used for such fees if all of the following occur:

(A) The tasks and fees of the packager are enumerated in an agreement between the applicant and the packager which is subject to prior approval by the Department;

(B) The applicant is incapable of carrying out the task for which these services are sought;

(C) The applicant does not have the funds with which to hire a packager;

(D) Payments to the packager are staged in accordance with the completion of various tasks;

(E) For RD financed housing developments, such fees will be disbursed from the Fund only if, in advance of the initial disbursement, RD approves the use of a packager and the fees to be paid; and

(F) Charges payable from Program funds for such fees may be approved to a maximum of 1% of the housing development's costs or $100 per unit, whichever is less.

(4) Legal Fees. These fees must be reasonable relative to the legal work required. Normally, the legal fees allowable under RD and/or HUD-FHA schedules and practices will provide the upper limit for such expenses. Billings or statements for legal services must be itemized.

(e) Waivers. The Director may waive any requirement of this section not required by law if it is determined that such requirement would adversely affect the purposes of the grant program or that such requirement would impose an intolerable burden on the grantee.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering of former section 7206 to new section 7209.5, including amendment of section, filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7210. Site and Design Criteria.

(a) Applicants shall observe the following criteria relative to the location and design of proposed housing developments:

(1) Site Criteria.

(A) The location is in or reasonably near a residential area with access to schools, shopping, medical services, social services and employment;

(B) The location does not unnecessarily confine assisted units to an area in which there exists a high concentration of low income households.

(C) The location of the housing development is not found to be inconsistent with the housing element or housing assistance plan of the public jurisdiction in which the housing development is to be located;

(D) The characteristics of the site, including its topography and distance to public utilities, do not result in unreasonable development or rehabilitation costs; and

(E) The site will not be in a 100 year flood plain unless sufficient measures have been taken, as determined by the Department, to ensure the security of the housing development in the event of flooding.

(2) Design Criteria.

(A) The design will provide safe, sanitary, and decent housing meeting the requirements of all applicable building and housing standards and codes;

(B) The design to the maximum extent feasible, is compatible with the existing community in which the housing development will be located;

(C) To the maximum extent feasible, the design of the improvements, the materials and the mechanical equipment to be used, and the siting of the structures shall be consistent with effective energy conservation design principles; and

(D) The design provides for a cost effective use of grant funds in order to achieve affordable housing costs for agricultural households.

(b) A major deficiency in meeting one or more of the listed site or design criteria may result in the Department's rejection of an application.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Amendment of subsection (a)(1) filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment of subsection (a) filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7211. Loan Terms and Requirements.

(a) The term of a loan for a rental housing development shall be for 55 years commencing on the date of recordation of the Program loan documents.

(b) A loan shall bear simple interest at the rate of three percent (3%) per annum.

(c) Repayment of principal and interest on a loan shall be deferred for the full term except that, for rental housing developments, payments shall

be required to the extent of available cash flow and residual receipts pursuant to Section 8314.

(d) Loans shall be evidenced by a promissory note the repayment of which shall be secured by a deed of trust recorded as a lien on the development property and improvements.

NOTE: Authority cited: Sections 50406 and 50517.5, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New section filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7212. Priorities in Use of Funds.

(a) Special consideration may be given to housing developments which meet one or more of the following criteria:

(1) The plan for development or rehabilitation provides for ownership or eventual ownership by agricultural employees, including ownership of shares in a cooperative housing corporation.

(2) The housing development conforms with the Statewide Housing Plan and the Farmworker Housing Assistance Plan, and the housing element for the jurisdiction in which the development will be located.

(3) The number of dwelling units projected to be occupied by agricultural households and to be regulated as such in the regulatory agreement or grant agreement will be large in relation to the total amount of grant funds requested.

(4) The plan for development provides for rehabilitation of existing housing provided that the total development cost of rehabilitation compares favorably with the cost of new construction for a comparable facility.

(5) The plan for development or rehabilitation provides that some or all of the housing units of the housing development will be accessible and adaptable to the needs of the elderly or disabled.

(6) There are social and economic factors associated with the housing development such as:

(A) The housing development is intended to serve households with the greatest need for government assistance in obtaining adequate and affordable housing as measured by the extent to which the development serves agricultural workers at the lowest income levels.

(B) Labor and economic development programs and any other relevant programs or services will be available on site or in close proximity to the housing development.

(C) Other significant social or economic aspects merit special considerations.

(7) There is an urgent need for farmworker housing in the area where the housing development will be located based on local vacancy rates or evidenced by verification from the local government or as shown in a Department–approved market study.

(8) The housing development will utilize solar and other alternative energy efficient systems.

(9) The housing development will utilize manufactured housing or other cost–efficient design or construction techniques for the purpose of making housing affordable to lower–income households.

(10) The applicant has demonstrated an ability to proceed with the project more quickly than other projects and/or applicants.

(11) The applicant has a high degree of experience in development and ownership of affordable housing relative to other applicants.

(12) For tax credit projects, the project will leverage a high amount of other funding relative to other tax credit projects.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Sections 50007.5 and 50517.5, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 2–10–83; designated effective 3–4–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7214. Grant Committee. [Repealed]

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Amendment filed 2–10–83; designated effective 3–4–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Repealer filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

Article 3. Application Procedure

§ 7215. Application Process.

(a) The Department shall periodically issue a Notice of Funding Availability (NOFA) that specifies, among other things, the amount of funds available, application requirements, the selection and weighting of funding priorities, the deadline for submittal of applications, the schedule for rating and ranking of applications and awarding funds, and the general terms and conditions of funding commitments. A NOFA may declare as ineligible applications for which the Department has issued, or concurrently will issue, a special NOFA pursuant to subsection (e).

(b) Applicants shall make application on a form made available by the Department requesting information required by this Subchapter 3.

(c) Applications selected for funding shall be approved at loan and/or grant amounts, terms, and conditions specified by the Department based on staff's analysis of the financing structure and amount of funds necessary for the activity to be financially feasible, and, in the case of a rental housing development, to meet the underwriting requirements of Sections 8310, 8311, and 8312. For each application selected for funding, the Department shall issue an award letter and a conditional loan and/or grant commitment.

(d) In order to implement the goals and purposes of the Program, the Department may adopt measures to direct funding awards to designated types of housing developments based on the factors set forth in Section 7212. These measures may include, but are not limited to:

(1) Issuing a special NOFA for designated project types.

(2) Awarding bonus points within a particular NOFA to designated development types.

(3) Notwithstanding anything in these regulations to the contrary, a special NOFA issued pursuant to this subsection may establish an over–the–counter application process, meaning the Department continuously accepts and rates applications according to minimum threshold criteria based on Section 7212 published in a NOFA for the process, and makes awards to housing developments that meet or exceed these criteria until the funding available for the process is exhausted.

NOTE: Authority cited: Sections 50406 and 50517.5, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New article 3 heading and new section filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7216. Application Process. [Repealed]

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Amendment filed 2–10–83; designated effective 3–4–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Repealer filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7217. Contents of Applications.

(a) Application shall be made on a form made available by the department requesting information required by these regulations and, for Rental Housing Developments, the Uniform Multifamily Regulations. Applicants shall provide sufficient information for the department to determine that the applicant is eligible, that the project is eligible, that the proposed uses of Program funds are eligible, and in the case of a Rental Housing Developments, that the project will maintain Fiscal Integrity.

(b) Use of RD, CHFA or other Department funds. If the applicant will use RD, CalHFA or other Department program loans or grants as all or part of its matching share, the applicant shall submit with its application a copy of the preliminary or final application, as the case may be, it has submitted for such matching funding.

(c) All applicants shall provide the following information:

(1) Contact information for the following if they are involved in the project: applicant, sponsor, developer, general contractor, credit enhancer, borrower's counsel, bond counsel, credit enhancer, and property manager.

(2) A resolution authorizing the application for the grant with original signatures of the authorized officials of the applicant organization.

(3) A description of the proposed site, available utilities and amenities, and the following:

(A) Information sufficient to demonstrate compliance with sections 7210 and 8303 regarding site criteria and control;

(B) A preliminary title report;

(C) Description of current and proposed ownership; and

(D) Phase I or Phase II environmental report.

(4) A description of the proposed improvements both residential and commercial, and a timetable for construction.

(5) A plot plan and detailed plans and specifications.

(6) A detailed cost breakdown for such items as land acquisition, site development, construction (including rehabilitation), equipment, utility connections, financing, fees and furnishings if such are to be included.

(7) Sources and uses for both construction and permanent financing of the housing development including the amount of Program funds needed and the source and amount of the matching share.

(8) Information on the method of construction or rehabilitation and on the architectural, engineering and legal services to be provided including copies of any contracts for the provisions of these services.

(9) Satisfactory evidence of review and approval by the required state and local officials.

(10) A market analysis which supports the need for the proposed housing and includes the characteristics of the persons eligible for occupancy including income and estimates of the number of eligible occupants willing and able to occupy the proposed housing. This market analysis shall specifically address the demand for agricultural worker housing and the ability of local agricultural workers to pay the rents or housing costs proposed in the application.

(11) Income ranges of the agricultural households to be served.

(12) Existing or proposed legal composition of the applicant, including:

(A) For nonprofit corporations: articles of incorporation or enabling resolution of operating authority, bylaws, and a list of directors and officers;

(B) For limited liability companies: the operating agreement and the names of all members.

(C) For limited partnerships, the appropriate information required in subparagraphs (A) and (B) for each general partner.

(13) Current financial statement for nonprofit organization applicants.

(14) A description and justification of any related facilities to be financed by the Program funds.

(15) A satisfactory survey of the land.

(16) A resolution authorizing the application for the grant with original signatures of the authorized officials of the applicant organization.

(17) Other materials as required by the Department in its application instructions.

(d) Rental Housing Development applications shall also include:

(1) Detailed operating budgets for the first year's operation and for a typical year's operation that include:

(A) Allowance for vacancies and non-payment of rents or fees;

(B) Allowances for accumulation of a reserve account as required by Section 7234; and

(C) Separate listings of all applicable federal, state and local taxes.

(D) Identification of any operating subsidies.

(2) Narrative statements of the proposed manner of managing the housing and information on the qualifications of the management staff.

(3) A statement of policy regarding management and operation including method of tenant selection, proposed lease and grievance procedures, and proposed rules and regulations for the housing development.

(4) A schedule of proposed rents and utility estimates which indicates that the monthly shelter costs for assisted units will be affordable by low income agricultural households as provided in Section 7204(b).

(5) For rehabilitation projects: a physical needs assessment; description of any relocation plans, scope of proposed work, current rent roll, and current tenant incomes and household size by unit.

(6) History and status of any legal proceedings involving the applicant or any of the following, as appropriate to the organization of the applicant: principals, officers, directors, senior executives, general partners, members, and owners with more than a 10% interest.

(7) Description of at least the last five years' experience in developing projects similar to the project being applied for and describing the applicant's relationship to the development process (e.g., principal, affiliate, general partner, managing member). If the applicant will be relying on the experience of specific individuals within the applicant's organization, resumes and statements of qualifications for those individuals shall be included.

(8) Any special issues regarding the development (e.g., soils, slope, historic preservation, relocation, environmental).

(9) Narrative and/or documentation evidencing compliance with Section 7205.1 regarding sponsor control for the entity and/or individual(s) for which experience is claimed in paragraph (7) above.

(e) Homeownership Applications shall also include:

(1) Information regarding the financing of the individual dwelling units including the amount of grant needed and the source and amount of matching share; and

(2) A breakdown of the pro rata share of the grant which will be applied to each assisted dwelling unit and the criteria used to make such a determination.

(f) The Director may waive any requirement of this section provided that he/she has determined that the submittal of such information at the time of grant application is unnecessary for adequate evaluation of the feasibility of a proposed housing development.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering of former section 7218 to new section 7217, including amendment of section heading and section, filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7218. Contents of Grant Applications. [Renumbered]

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Amendment filed 2–10–83; designated effective 3–4–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Renumbering of former section 7218 to section 7217 filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7220. Grant or Loan Cancellation.

(a) After notice has been given to the recipient and other parties with an interest in the housing development, an award of Program funds may be canceled. Cancellation may occur after an award has been approved but before any disbursements have been made or after partial disbursement of the Program funds, if the following occur:

(1) The objectives for which the award was made cannot, for any reason, be met; or

(2) Alternative sources of matching financing cannot be obtained by the recipient; or

(3) The recipient has not abided by the conditions of the conditional commitment or other agreements executed with the Department.

(4) The recipient has failed to execute required agreements or to provide necessary documentation within a reasonable time period prescribed by the Department.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Repealer of former Section 7220 and renumbering and amendment of Section 7222 to Section 7220 filed 2–10–83; designated effective 3–4–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment of section heading and section filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

Article 4. Program Operations

§ 7222. Environmental Clearances.

(a) Whenever a proposed housing development is a project which potentially may have a significant impact on the environment and is not categorically exempt, recipients will be responsible for supplying in a timely and responsive way all data and information to all public agencies that have the primary responsibility for complying with requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

(b) Program applicants for projects subject to CEQA shall provide the Department with assurances of compliance with CEQA.

(c) Recipients which are local public entities shall act as lead agency for projects subject to CEQA unless another public entity has assumed the role of lead agency.

The activities of the Department regarding implementation of CEQA shall be governed by Subchapter 3 of Chapter 6.5 of Title 25, California Administrative Code (Sections 6940 et seq.).

NOTE: Authority cited: Section 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 7222 to Section 7220 and renumbering and amendment of Section 7224 to Section 7222 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. New article heading and amendment of section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7224. Coordination with Federal Agencies.

(a) Recipients which will utilize federal assistance, such as loans and/or grants from RD, as their matching share, shall submit promptly to the Department copies of all letters from the federal agencies that have a bearing on the housing development.

(b) The department will work with the federal agencies to ensure a coordinated approach to processing and approving applications for housing developments.

(c) In the event a conflict exists between federal and state regulations, the Department shall yield to the federal regulations insofar as not prohibited by State law or the legitimate interests of the State.

(d) The Department always maintains the right to monitor housing developments assisted by its grant in areas of concern to the Department.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 7224 to Section 7222 and renumbering of Section 7226 to Section 7224 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment of subsection (a) filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7225. Standard Agreement.

(a) The Department and recipient shall enter into an agreement known as a standard agreement that represents a conditional commitment of Program Funds.

(b) This standard agreement will reserve Program funds in an amount approved for funding by the Department.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7226. Grant Agreement.

(a) In order to close a grant, a grantee is required to execute a Grant Agreement with the Department.

(b) The Grant Agreement shall be in a form determined by the Department and shall contain, but not be limited to, the following conditions:

(1) Assisted Units. It shall specify the minimum number of units of the housing development which have been designated as assisted units subject to program occupancy and resale restrictions.

(2) Recordation. It shall require the grantee to cause the Grant Agreement to be recorded in the Official Records of the county in which the housing development is or will be situated.

(3) Lien. The Grant Agreement shall be recorded as a lien on the real property of the housing development, or the title of a manufactured home not on a permanent foundation, in favor of the Department for the purpose of securing performance of the conditions of the Grant Agreement. The lien shall endure for the duration of the Grant Agreement and shall be subject to the provisions of Section 7230.

(4) Duration. It shall state that it is binding on the grantee for a term of fifty-five (55) years for rental housing development new construction and rehabilitation, a term of twenty (20) years for conventionally-constructed ownership housing or manufactured housing placed on a permanent foundation, and a term of ten (10) years for manufactured housing not on a permanent foundation. The Department may in its discretion prescribe a lesser period for the duration of Grant Agreements relating to housing to be developed for ownership by individual agricultural households.

(5) Conveyance. It shall state that for the duration of the Grant Agreement, no contract for sale or conveyance of the housing development, or any portion thereof, shall be entered into or made without the express prior written approval of the Department, which approval shall be given in accordance with the provisions of Section 7228.

(6) Covenants. In addition, the Grant Agreement will contain, but not be limited to, the following covenants:

(A) Agricultural households shall be given a priority for occupancy in non-assisted units, and those agricultural households of low income shall be given a preference for occupancy in assisted units.

(B) The grantee shall accept the criteria for tenant and homeowner selection that has been determined by the Department for assisted units.

(C) The grantee shall accept the terms of occupancy agreements that have been prescribed by the Department for assisted units.

(D) With regard to rental housing developments, the grantee shall additionally agree to abide by the provisions of Section 7234.

(7) The Grant Agreement shall further provide that in the event of a breach of any of its conditions or covenants, the grantee or its successors in interest, the Department shall have the option to enforce the Grant Agreement by proceeding at law or in equity. The Department may, at its option, require the grantee or its successor in interest to immediately repay to the State the total amount of the grant then due with interest. The interest rate shall be the same as the average rate returned by the investment of state funds through the California Pooled Money Investment Board from the date of breach to the date of repayment.

(8) It shall provide that in the event of a forced sale or conveyance of the housing development resulting from an action to foreclose on a mortgage or deed of trust, the execution of a judgment lien, or other action resulting in an involuntary sale, the purchaser shall take title subject to these conditions and limitations, unless the appropriate amount of the grant is returned to the Department in accordance with these regulations.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering of former Section 7226 to Section 7224 and renumbering and amendment of Section 7228 to Section 7226 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment of subsections (b)(3)-(4) and (b)(6)(D) filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7228. Conveyance of the Housing Development.

The following provisions govern the sale or conveyance of the housing development, or any part thereof.

(a) Conveyance to Agricultural Households for the Purpose of Homeownership. If the grantee intends to sell or convey all or a portion of the

housing development to individual agricultural households for the purpose of homeownership, the Department will authorize the sale or conveyance after the following conditions are met:

(1) Identification of Assisted Units. The grantee must identify any assisted units that will be located in the conveyed portion(s) of the housing development.

(2) Allocation of Grant Funds. For each assisted unit identified, the grantee shall specify in monetary terms the portion of the grant funds that will be used to reduce the costs of acquiring ownership of the assisted unit by an agricultural household.

(3) Subsequent Grant Agreement. Prior to or concurrently with the sale or conveyance of an assisted unit, the grantee shall ensure that a representative of the agricultural household which will own the assisted unit executes a Subsequent Grant Agreement with the Department which shall be in a form prescribed by the Department and contain the following conditions:

(A) It shall be binding upon the agricultural household for a term of twenty (20) years for conventionally-constructed housing or manufactured housing placed on a permanent foundation, and for a term of ten (10) years for manufactured housing not on a permanent foundation.

(B) It shall require the members of the agricultural household to reside in the assisted unit for the duration of the Subsequent Grant Agreement.

(C) It shall contain the following conditions with respect to the sale or conveyance of an assisted unit by the agricultural household.

1. If an assisted unit is sold or conveyed within a period of 10 years from the date of execution of the Subsequent Grant Agreement, an amount equal to the sum allocated to the assisted unit pursuant to subdivision (a)(2) of this section shall be paid to the Department.

2. If an assisted unit, other than a manufactured home not installed on a permanent foundation, is sold or conveyed more than ten years after the date of execution of the Subsequent Grant Agreement, the Department shall be repaid an amount equal to the sum allocated pursuant to subdivision (a)(2) of this section minus 10% of that amount for each additional year that the agricultural household occupies the assisted unit beyond the tenth year. The lien for a manufactured home not installed on a permanent foundation shall be released 10 years from the date of execution of the Subsequent Grant Agreement, and no repayment of grant funds will be required, if the homeowner is in compliance with the Subsequent Grant Agreement.

3. The Department shall determine whether or not any amounts subject to repayment to the Department, as specified above, will be assigned to the new owner in lieu of repayment to the Department.

4. The Subsequent Grant Agreement shall terminate after the grant funds have been repaid to the Department and the assisted unit has been sold or conveyed.

(4) Recordation of the Subsequent Grant Agreement. The grantee shall cause the Subsequent Grant Agreement and other pertinent documents to be recorded in the official records of the county in which the housing development is located.

(5) Sale of Non-assisted Units. After the total number of assisted units has been determined, the Department shall approve the sale or conveyance of any housing units not identified as assisted units and shall, at the time of sale or conveyance, release any such units from the lien securing performance of the Grant Agreement. The grant shall not be used to reduce the acquisition cost of a non-assisted unit.

(6) Termination of Grant Agreement. The Department shall terminate the Grant Agreement and the lien securing its performance after sale or conveyance of all of the assisted units if all of the conditions of the Grant Agreement have been satisfied, as determined by the Department.

(7) The Department may charge an administrative fee for its costs in processing a Subsequent Grant Agreement.

(b) Conveyance For Continued Agricultural Households Occupancy. If the grantee intends to sell or convey the housing development to an entity that will continue to use the development to provide housing for agricultural households, the Department will authorize the sale or conveyance provided that:

(1) The successor in interest to the grantee agrees to assume the obligations of the grantee, including the assumption of the conditions and obligations specified in the Grant Agreement between the grantee and the Department.

(2) The successor in interest agrees to take title to the housing development subject to the Grant Agreement between the grantee and the Department.

(3) The successor in interest agrees to an extension of the duration of the Grant Agreement where the Department has determined that such an extension would be in the best interest of the continued operation of the housing development.

(4) The successor in interest has demonstrated to the satisfaction of the Department that it can adequately operate the housing development in accordance with the requirements of the program and meet its obligations under the Grant Agreement.

(c) Conveyance For Use Other Than Agricultural Household Occupancy. The grantee shall not sell or convey the housing development to an entity that will not continue to use the development to provide housing for agricultural households in accordance with program requirements unless the Department has approved such sale or conveyance. The Department will approve a sale or conveyance provided that the grantee has demonstrated to the satisfaction of the Department that good cause exists for terminating the operation of the housing development as provided in Section 7236; and the grantee repays the state the full amount of the grant.

NOTE: Authority cited: Sections 50402, 50406 and 50517.5(d)(5), Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 7228 to Section 7226 and renumbering and amendment of Section 7230 to Section 7228 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7230. Subordination.

The Department may execute and cause to be recorded in the office of the recorder of the county in which a Grant Agreement, Regulatory Agreement, or Subsequent Grant Agreement has been recorded, a subordination of the Agreement, provided that any subordination of the Agreement shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in such subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 7230 to Section 7228 and renumbering and amendment of Section 7232 to Section 7230 filed 2-10-83; designated effective 3-4-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment of section heading and section filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

§ 7231. Regulatory Agreement.

(a) In order to close a loan, a recipient shall enter into a regulatory agreement with the Department with a term not less than the term of the loan. The regulatory agreement shall be recorded against the rental housing development property prior to the disbursement of any Program funds.

(b) The Regulatory Agreement shall be in a form determined by the Department and shall contain, but not be limited to, the following:

(1) The number, type and income level of Assisted Units pursuant to Section 7209.

(2) Standards for tenant selection pursuant to Section 8305.

(3) Provisions regulating the terms of the rental agreement pursuant to Section 8307.

(4) Provisions related to operation of the project pursuant to Section 7234.

(5) Provisions for limitation on distributions pursuant to Section 8314.

(6) Description of the conditions constituting breach of the regulatory agreement and remedies available to the parties thereto.

(7) Provisions governing use and operation of non-Assisted Units and common areas to the extent necessary to ensure compliance with Program requirements.

(8) Provisions specifying that the regulatory agreement shall be binding on all successors and assigns of the borrower.

(9) Other provisions necessary to assure compliance with the requirements of the Program.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New section filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7232. Disbursements.

(a) Program funds shall only be disbursed for payment of obligations which are due or for reimbursement of expenditures previously approved by the Department.

(b) The recipient must request disbursements of Program funds on a form prescribed by the Department and such requests must be in accordance with authorized amounts set forth in the budget approved by the Department. With the prior approval of the Department, the recipient may transfer any allocations or portions thereof set forth in the approved budget to other allocated items of said budget.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 7232 to Section 7230, repealer of Section 7234 and renumbering and amendment of Section 7236 to Section 7232 filed 2–10–83; designated effective 3–4–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Amendment of section heading and section filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7234. Operation of Rental Housing Developments.

Except as otherwise explicitly set forth in this section, operation requirements shall refer to the entire development and all units therein, rather than only to the assisted portion:

(a) Occupancy Restrictions. The recipient shall maintain the housing development so that assisted units shall only be occupied by agricultural households in accordance with the provisions of Section 7208(g).

(b) Operating Reserves. Operating reserves for a housing development shall be established as required by Section 8308. The Department, at its discretion, may allow the use of the grant funds to satisfy part or all of this requirement.

(c) Replacement Reserve. Replacement reserves for a housing development shall be established as required by Section 8309.

(d) Housing Costs. The Department will approve a schedule of rents as may be necessary to provide occupants of the housing development with affordable housing costs to the extent consistent with the maintenance of the fiscal integrity of the housing development and the requirements of other agencies which have financed the housing development.

(1) The recipient shall not increase the rent on any unit of the housing development without the prior permission of the Department, which shall be given if the recipient demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the housing development and that such increase complies with the procedures and limits required by the federal or other state agencies which have financed the housing development. Rents in Assisted Units may be adjusted no more often than annually. The amount and method of adjustment for Assisted Units shall be in accordance with procedures used by the California Tax Credit Allocation Committee.

(e) Occupancy Rules. Documents, including rental agreements, governing, tenant occupancy of the housing development shall be subject to approval by the Department.

(f) Linguistic Services. The recipient shall provide linguistically appropriate services and publications to the occupants of the housing development.

(1) If requested, the Department will provide recipients technical assistance in meeting this obligation.

(g) Maintenance. The recipient shall maintain the housing development in a way which protects the public interest and the health, safety and welfare of its occupants, and the secured interest of the Department.

(h) Right of Inspection. The Department may, through its agents or employees, with prior notice enter upon and inspect the lands, buildings, and equipment of the grantee, including books and records, at any time before, during or after the construction or rehabilitation of the housing development.

(1) The Department shall neither enter or inspect any unit which is occupied, whether or not the occupant is present, without the prior consent of the occupant.

(2) After inspection of the housing development, the Department may require such repairs or corrections as may be necessary to protect the public interest or the health, safety, or welfare of the occupants of the housing development.

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Repealer of former Section 7234 and renumbering of Section 7238 to Section 7234 filed 2–10–83; designated effective 3–4–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).
2. Repealer of subsection (c) and new subsections (c)–(c)(4) filed 10–1–2002; operative 10–1–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 40).
3. Amendment of subsections (a)–(c) and repealer of subsections (c)(1)–(4) filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).
4. Amendment of subsections (a), (d), (d)(1) and (f)–(g) filed 4–2–2008; operative 5–2–2008 (Register 2008, No. 14).

§ 7236. Termination of Grant Agreement.

(a) A grantee may terminate a Grant Agreement upon request provided that the grantee repays the Department the full amount of the grant and the Department has determined that one or more of the following or similar circumstances has occurred which makes the continued operation of the housing development in compliance with Program requirements no longer feasible:

(1) The employment of agricultural workers has greatly decreased in the area.

(2) A sufficient number of agricultural workers and their families in fact do not apply to live in the housing development.

(3) The dwelling units of the housing development are no longer suitable because of design, size, or age, for the housing needs of the agricultural workers and their families employed in the area.

(4) The grantee's continued operation of the housing development is no longer financially feasible and the grantee has demonstrated to the satisfaction of the Department that it has made a good faith effort to convey the housing development in accordance with Section 7228(b).

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 7236 to Section 7232 and renumbering and amendment of Section 7240 to Section 7236 filed 2–10–83; designated effective 3–4–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§ 7238. Disposition of Recaptured Grant Funds.

All funds, including interest therefrom, repaid to the Department because of termination, sale, conveyance, default, recapture or any other reason, will be deposited in the Farm Worker Housing Grant Fund.

NOTE: Authority cited: Sections 50402, 50406 and 50517.5(b), Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 7238 to Section 7234 and renumbering and amendment of Section 7242 to Section 7238 filed 2–10–83; designated effective 3–4–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 7).

§ 7239. Uniform Multifamily Underwriting and Program Rules. [Renumbered]

NOTE: Authority cited: Sections 50402 and 50406, Health and Safety Code. Reference: Section 50517.5, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).
2. Renumbering of former section 7239 to section 7201 filed 4-2-2008; operative 5-2-2008 (Register 2008, No. 14).

Subchapter 3.5. Farm Labor Housing Rehabilitation Loan Program

Article 1. General

§ 7270. Definitions.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50852-50857, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing subchapter 3.5, article 1 and section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

Article 2. Program Requirements

§ 7272. Criteria for Eligibility.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50853, 50855 and 50858, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing article 2 and section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7274. Eligible Use of Funds.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50853 and 50855, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7275. Security.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50856 and 50857, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7276. Term.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Section 50587, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7278. Loans in Excess of $200,000.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Section 50857, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7280. Interest Rate.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50855 and 50857, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7282. Loan Repayment.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50856 and 50857, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

Article 3. Application and Funding Procedures

§ 7284. Application Requirements.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50853, 50857 and 50858, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing article 3 and section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7286. Application Process.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50855 and 50857, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7288. Project Selection.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50855 and 50857, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

Article 4. Program Operations

§ 7290. Legal Documents.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Section 50856, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing article 4 and section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7292. Disbursement of Loan Funds.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50856, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7294. Amendment to Agreements.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Sections 50856, Health and Safety Code.

HISTORY

1. New section filed 7-24-87; operative 7-24-87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11-1-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

§ 7296. Termination of Agreements.

NOTE: Authority cited: Section 50857, Health and Safety Code. Reference: Section 50856(a), Health and Safety Code.

HISTORY

1. New section filed 7–24–87; operative 7–24–87 pursuant to Government Code Section 11346.2(d) (Register 87, No. 32).
2. Change without regulatory effect repealing section filed 11–1–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 44).

Subchapter 4. Multifamily Housing Program

Article 1. General

§ 7300. Purpose and Scope.

(a) These regulations implement and interpret Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31, Health and Safety Code, which establishes the Multifamily Housing Program.

(b) These regulations establish terms, conditions and procedures for funds awarded after the effective date of these regulations.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50406 and 50675, Health and Safety Code.

HISTORY

1. Amendment of subchapter 4 heading and new subchapter 4 (articles 1–5, sections 7300–7336), article 1 (sections 7300–7301) and section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2). For prior history of subchapter 4 (articles 1–2, sections 7300–7330), see Register 96, No. 12.

§ 7300.1. Uniform Multifamily Underwriting and Program Rules.

(a) Subchapter 19 of Title 25, Division 1, Chapter 7 (commencing with Section 8300) is hereby incorporated by reference into this subchapter and shall apply to rental housing developments receiving assistance under the Multifamily Housing Program.

(b) In the event of a conflict between the provisions of Subchapter 19 and this Subchapter 4, the provisions of this Subchapter 4 shall prevail.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: 50675.1, 50675.2, 50675.4, 50675.5, 50675.6, 50675.7 and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7301. Definitions.

In addition to the definitions found in Chapter 2 (commencing with Section 50050), of Part 1 of Division 1 of the Health and Safety Code, and Health and Safety Code Section 50675.2, the following definitions and those found in the Uniform Multifamily Regulations (Chapter 7, subchapter 19, Section 8301) shall apply to this subchapter. In the event of a conflict between the following definitions and those cited above, the following definitions prevail for the purposes of these regulations. The defined terms will be capitalized as they appear in the regulation text. References to code sections refer to sections of these regulations unless otherwise noted:

(a) "Affordable Rents" means Rents established for Assisted Units in accordance with Section 7312.

(b) "Area Median Income" means the most recent applicable county median family income published by TCAC.

[The next page is 327.]

(c) "Article XXXIV" means the Article of the California Constitution (Health and Safety Code Section 37000) that requires advance voter approval of certain publicly funded low-rent housing Projects.

(d) "Disabled Household" means a household in which a member has an orthopedic disability impairing personal mobility or a physical disability affecting his or her ability to obtain employment, or in which a person requires special care or facilities in the home. "Disabled Household" also includes a household in which a member has a developmental disability specified in subdivision 4512(a) of the Welfare and Institutions Code, or a mental disorder, which would render him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, or a single person with such a developmental disability or mental disorder.

(e) "Efficiency Unit" means a Dwelling Unit containing only one habitable room. A room in a structure that is a single-family house at the time of application will not be considered to be an Efficiency Unit eligible for program funds.

(f) "Eligible Households" means households whose incomes do not exceed the income limits specified by TCAC or other, lower income limits agreed to by a Project Sponsor and the Department. In non-Special Needs Population Projects, household income will be calculated on the basis of Units in accordance with TCAC rules and procedures. In Special Needs Populations Projects, household income may be calculated on the basis of bedrooms within a single-family house and bedrooms within an apartment Unit, provided all Project Units are located on the same parcel or on contiguous parcels and the bedrooms are: (1) occupied by a single individual who is a member of a Special Needs Populations, or an individual member of a Special Needs Populations and his or her relatives or caretaker and (2) subject to an individual rental or occupancy agreement. In transitional Special Needs Populations Projects, household income may be calculated on the basis of each occupant of each bedroom provided all Project Units are located on the same parcel or on contiguous parcels and no more than 2 unrelated persons are occupying a bedroom.

(g) "Fiscal Integrity" means that the total Operating Income plus funds released pursuant to the Regulatory Agreement from the operating reserve account is sufficient to: (1) pay all current Operating Expenses; (2) pay all current debt service (excluding deferred interest); (3) fully fund all reserve accounts (other than the operating reserve account) established pursuant to the Regulatory Agreement; and (4) pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the permitted annual Distributions shall not be considered in determining Fiscal Integrity.

(h) "Fund" means the Housing Rehabilitation Loan Fund established pursuant to Section 50661 of the Health and Safety Code.

(i) "Initial Operating Year" means the initial period of operation of the Rental Housing Development, beginning at the time of the initial occupancy of the completed Project and ending on the last day of the fiscal year for the development.

(j) "Manager's Unit" means a Unit in which the on-site manager of the Project resides. A Manager's Unit will not be considered to be an MHP Assisted Unit, nor will it be considered to be a Restricted Unit for the purpose of calculating allowable Distributions. A Manager's Unit will be considered to be a Restricted Unit for the purpose of allocating development costs and may qualify for a loan amount up to the amount applicable to the 60% of AMI level.

(k) "Nonprofit Corporation" means the same as defined in Section 50091 of the Health and Safety Code.

(l) "Refinance" means to pay off all or a portion of existing debt secured by the Project with the proceeds of a Program loan or other financing also secured by the Project.

(m)

(n) "Rehabilitation" means the term as defined in Section 50096 of the Health and Safety Code, including improvements and repairs made to a residential structure acquired for the purpose of preserving its affordability.

(o) "Rent" means the same as "gross Rent," as defined in the Internal Revenue Code (26 USC 42(g)(2)(B). It includes all mandatory charges, other than deposits, paid by the tenant for the use and occupancy of an Assisted Unit, plus a utility allowance established in accordance with TCAC regulations. For Units assisted under the HUD Section 8 or similar rental subsidy program, Rent includes only the tenant contribution portion of the contract rent.

(p) "Rent-Up Costs" means costs incurred in connection with marketing and preparing an Assisted Unit for occupancy while the Unit is on the housing market but not yet rented to its first tenant.

(q) "Residential Hotel" means any building that contains 6 or more Residential Hotel Units, where a majority of the Units are Residential Hotel Units. Single-family houses are not considered Residential Hotels.

(r) "Residential Hotel Unit," also referred to as a single room occupancy Unit or an SRO, means an Efficiency Unit that: (1) is occupied as a primary residence, and (2) is subject to state landlord-tenant law pursuant to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. The term also includes a Unit in an "SRO Project" as described in California Code of Regulations, Title 4, Section 10325(g)(3).

(s) "Special Needs Populations" means Disabled Households, agricultural workers, single-parent households, survivors of physical abuse, homeless persons or persons at risk of becoming homeless, chronically ill persons including those with HIV and mental illness, displaced teenage parents (or expectant teenage parents), homeless youth as defined in Government Code section 11139.5, individuals exiting from institutional settings, chronic substance abusers, or other specific groups with unique housing needs as determined by the Department. "Special Needs Populations" do not include seniors or the frail elderly unless they otherwise qualify as a Special Needs Population.

(t) "State Median Income" means the most recent total median family income for California issued by the federal Department of Housing and Urban Development ("HUD"). For the purposes of assigning point scores and establishing income limits for Assisted Units, State Median Income percentages will be expressed as a percentage of Area Median Income rounded up to the next highest five percent increment as calculated annually by the Department.

(u) "Substantial Rehabilitation" means a Rehabilitation Project where the contract for Rehabilitation work equals or exceeds $25,000 per Unit.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675, 50675.1(c) and 50675.2, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 2. Program Requirements

§ 7302. Eligible Project.

Proposed Projects are eligible only if:

(a) the Project includes the new construction or Rehabilitation of a Rental Housing Development or conversion of a nonresidential structure to a Rental Housing Development; for purposes of calculating Program loan amounts and for the purpose of determining compliance with Program requirements that a Rental Housing Development contain 5 or more Units, a single-family house is considered to be one Unit, and an apartment Unit in an apartment building is considered to be one Unit regardless of the number of bedrooms within the apartment Unit;

(b) other development funding sources are insufficient to cover Project development costs; and

(c) at the time of the application due date, the construction or Rehabilitation work has not commenced, except for emergency repairs to existing structures required to eliminate hazards or threats to health and safety.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.2(d), 50675.4 and 50675.7, Health and Safety Code.

HISTORY

1. New article 2 (sections 7302–7316) and section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7303. Eligible Sponsor.

(a) A Sponsor shall be any individual, joint venture, partnership, limited partnership, trust, corporation, limited liability corporation, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof which meets the requirements of subsection (c), below.

(b) A Sponsor shall be organized on a for–profit, including limited profit, or nonprofit basis.

(c) In order to be eligible for funding, a Sponsor must demonstrate experience relevant to owning and developing affordable rental housing through one or more of the following:

(1) successful prior ownership and development of affordable rental housing;

(2) employment of a staff with demonstrated experience owning and developing affordable rental housing.

(d) Where 70% or more of the Units are reserved for Special Needs Populations, the Sponsor may qualify for development or ownership experience required by subsection (c)(1), above, by demonstrating that the Sponsor has experience owning and developing affordable rental housing or operating and developing affordable rental housing through the following:

(1) the Sponsor may qualify for development experience by contracting with a developer or development consultant for the provision of comprehensive development management services, provided that the Sponsor and the contractor have entered into an agreement acceptable to the Department making the contractor responsible for financial packaging, selection of other consultants, selecting the general construction contractor and property management agent, oversight of architectural design, construction management, and other major aspects of the development process; and

(2) the Sponsor may qualify for ownership experience if the role and responsibility of the Sponsor in the Projects submitted for such experience is commensurate with the ownership role and responsibilities in the proposed Project.

(e) If the Sponsor is a joint venture, and qualifies as an eligible Sponsor under the preceding subsections based on the experience of only one joint venture partner, that partner must have a controlling interest in the joint venture and a substantial and continued role in the Project's ongoing operations, as evidenced in the documents governing the joint venture.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.6 and 50675.7(c)(3), Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7304. Eligible Uses of Funds.

(a) Funds shall be used only for approved eligible costs that are incurred on the Project as set forth in this section, including the Refinance of interim loans used to pay such costs. In addition, the costs must be necessary and must be consistent with the lowest reasonable cost consistent with the Project's scope and area as determined by the Department.

(b) Eligible costs include the following:

(1) property acquisition;

(2) refinancing of existing long–term debt, only in connection with a Project involving Substantial Rehabilitation, and only to the extent necessary to reduce debt service to a level consistent with the provision of Affordable Rents in Assisted Units and with the Fiscal Integrity of the Project;

(3) land lease payments;

(4) construction and Rehabilitation work;

(5) off–site improvements, such as sewers, utilities and streets, directly related to, and required by the Rental Housing Development;

(6) on–site improvements related to the Rental Housing Development;

(7) architectural, appraisal, engineering, legal and other consulting costs and fees, which are directly related to the planning and execution of the Project and which are incurred through third–party contracts;

(8) development costs of a residential Unit reserved for an on–site manager, childcare facilities, and after–school care and social service facilities integrally linked to, and addressing the needs of the tenants of the Assisted Units;

(9) a reasonable developer fee subject to the provisions of Section 8312 of this title;

(10) Rent–Up Costs;

(11) carrying costs during construction, including insurance, construction financing fees and interest, taxes, and any other expenses necessary to hold the property while the Rental Housing Development is under construction;

(12) building permits and state and local fees;

(13) capitalized operating and capitalized replacement reserves up to the amount of the initial deposit required by the Department pursuant to Sections 8308(b) and 8309(b) of this title.

(14) escrow, title insurance, recording and other related costs;

(15) costs for items intended to assure the completion of construction, such as contractor bond premiums;

(16) environmental hazard reports, surveys, and investigations;

(17) costs of relocation benefits and assistance required by law; and

(18) any other costs of Rehabilitation or new construction approved by the Department.

(c) Except as provided in subsection (b)(8), above, no Program funds shall be used for costs associated exclusively with non–Restricted Units or Commercial Space. A Manager's Unit may be considered to be a Restricted Unit for the purpose of allocating development costs. If only a portion of the Rental Housing Development consists of Restricted Units, the Program loan amount shall not exceed the sum of the following:

(1) the costs of all items specified in subsection (b), above, associated exclusively with the Restricted Units;

(2) a share of the costs of common areas used primarily by residential tenants. This share shall be in direct proportion to the ratio between the gross floor area of the Restricted Units and the gross floor area of all residential Units; and

(3) a share of the cost of other items such as roofs that cannot specifically be allocated to Restricted Units, non–Restricted Units, or Commercial Space. This share shall be in direct proportion to the ratio between:

(A) the gross floor area of the Restricted Units, plus a share of the gross floor area of common areas used primarily by residential tenants in direct proportion to the ratio between the gross floor area of the Restricted Units and the gross floor area of all Units; and

(B) the total gross floor area of the structure or structures.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.2(e) and (h) and 50675.5, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsections (b)(9) and (b)(13) filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7305. [Reserved].

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.2(c), 50675.4(c)(1) and 50675.5(b)(8), Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

2. Repealer and reservation of section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7306. Type and Term of Loan.

(a) Program funds shall be used for post–construction, permanent financing only, except under an agreement with California Housing Finance Agency to provide construction period financing to eligible Projects receiving financing from both California Housing Finance Agency and the Program.

(b) The initial term of the loan shall be 55 years, commencing on the date of recordation of the Program loan documents.

(c) Upon request by the Sponsor, the Department may approve a 10–year extension of the loan term if the Department determines both of the following are met:

(1) The Sponsor is in compliance with the Regulatory Agreement and other Program loan documents and agrees to continue to comply during the extended term; and

(2) The extension is necessary to continue operations consistent with Program requirements.

(d) The Department may condition the extension on such terms as it deems necessary to ensure compliance with the requirements of the Program.

(e) The Program loan shall be secured by the Project real property and improvements, subject only to liens, encumbrances and other matters of record approved by the Department. The Program loan shall have priority over loans from local public agencies and loans provided by the Affordable Housing Program administered by the Federal Home Loan Bank, provided that the Department may subordinate to these loans if they have a principal amount equal to or greater than twice the amount of the Program loan.

(f) Where the requirements of federal funding for a project, or the requirements of the low–income housing tax credits used in a project, would cause a violation of the requirements of these regulations, the requirements of these regulations may be modified as necessary to ensure program compatibility. Where the requirements of federal funding or tax credits create what are deemed to be minor inconsistencies as determined by the director of the Department, the Department may waive the requirements of these regulations as deemed necessary to avoid an unnecessary administrative burden. Any such modifications or waivers shall be included in the Regulatory Agreement or other documents governing the MHP loan.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1(b), 50675.6 and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsections (a) and (c)(1) filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7307. Maximum Loan Amounts.

(a) The loan amount shall not exceed the total eligible costs required, when considered with other available financing and assistance, in order to:

(1) enable the acquisition, development and construction or Rehabilitation of the Rental Housing Development;

(2) ensure that Rents for Assisted Units comply with Program requirements; and

(3) operate in compliance with all other Program requirements.

(b) The loan amount is further limited to the sum of:

(1) a base amount per Restricted Unit; plus

(2) the amount per Restricted Unit required to reduce Rents from 30% of 60% of Area Median Income to the actual maximum restricted Rent for the Unit, assuming that the Rent reduction will be achieved by substituting Program funds for private amortized debt, and calculated by the Department based on private market multifamily rental loan terms available at the time of issuance of each notice of funding availability.

The initial base amount shall be $30,000 per Restricted Unit. The Department may periodically adjust this amount as necessary to ensure a sufficient volume of applications that meet the objectives of the Program, as evidenced by high rating scores received under Section 7320(b). In making adjustments to the base amount, the Department shall consider (A) demand evidenced in previous funding rounds; (B) the total amount of Program funds available for award; (C) trends in Project development costs; and (D) trends in the terms and availability of supplemental development funding sources.

(c) For loan limit calculations, Unit count shall include the number of single–family houses plus the number of Units within an apartment building or Residential Hotel regardless of whether bedrooms are rented individually.

For Units receiving rental assistance under renewable rental subsidy contracts, the loan amount will be based on the level of income restriction that will apply following the closing of the Program loan.

(d) In each notice of funding availability, the Department shall establish a maximum per Project loan amount. This maximum shall be set at a level that ensures sufficient demand for Program funds while meeting the Program's geographic and other distribution goals, taking into account the demand evidenced in previous funding rounds, the availability of other sources of rental subsidy financing and the total amount of Program funds available for award.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1 and 50675.6(e), Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsections (b)(2) and (c) filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7308. Interest Rate and Loan Repayments.

(a) Loans shall bear simple interest of 3% per annum on the unpaid principal balance. Interest shall accrue from the date that funds are disbursed by the Department to or on behalf of the Sponsor.

(b) For the first 30 years of the loan term, payments in the amount of 0.42% of the outstanding principal loan balance shall be payable to the Department commencing on the last day of the Initial Operating Year and continuing on each anniversary date thereafter. The balance of accrued interest shall be payable out of Operating Income remaining after payment of approved Operating Expenses, debt service on other loans, reserve deposits, and Sponsor Distributions. Commencing on the 30th anniversary of the last day of the Initial Operating Year, interest shall be payable in an amount equal to the lesser of: (1) the full amount of interest accruing on the outstanding principal loan amount; or (2) the amount determined by the Department to be necessary to cover the costs of continued monitoring of the Project for compliance with the requirements of the Program. HUD Section 811 and 202 projects will be subject to the requirements of this subsection.

(c) Except for the required payment of 0.42% of the outstanding principal loan balance, the Department shall permit the deferral of accrued interest for such periods and subject to such conditions as will enable the Sponsor to maintain Affordable Rents, maintain the Fiscal Integrity of the Project and pay allowable Distributions pursuant to Section 8314 of this title.

(d) All Program loan payments (including the 0.42% loan payment) shall be applied in the following order: (1) to any expenses incurred by the Department to protect the property or the Department's security interest in the property, or incurred due to the Sponsor's failure to perform any of the Sponsor's covenants and agreements contained in the deed of trust or other loan documents; (2) to the payment of accrued interest; and (3) to the reduction of principal.

(e) The total outstanding principal and interest, including deferred interest, shall be due and payable in full to the Department at the end of the loan term including any extension granted by the Department. The Department shall, at the end of the loan term, forgive that portion of the Pro-

gram loan, including principal and deferred interest, applied to the costs of developing childcare facilities provided that such facilities have been operated for childcare purposes for a period of not less than 10 years.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1 and 50675.6(c), Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsection (c) filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7309. Appraisal and Market Study Requirements.

(a) As a condition of funding, the Department may require an appraisal or market study, or both, to:

(1) establish a market value for the land to be purchased or leased as part of the Project for purposes of evaluating the reasonableness of the purchase price or lease terms pursuant to Section 7304;

(2) assist with establishing other reasonable development costs pursuant to Section 7304;

(3) assess Fiscal Integrity;

(4) verify an adequate tenant market.

(b) Any appraisal required by the Department shall be prepared at the Sponsor's expense by an individual or firm which:

(1) has the appropriate license and the knowledge and experience necessary to competently appraise low–income residential rental property;

(2) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal;

(3) in reporting the results of the appraisal, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property; and

(4) is an independent third party having no identity of interest with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor.

(c) Any market study required by the Department shall be prepared at the Sponsor's expense by an individual or firm which:

(1) has the knowledge and experience necessary to conduct a competent market study for low–income residential rental property;

(2) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible market study;

(3) in reporting the results of the market study, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true market needs for low–income residential property; and

(4) is an independent third party having no identity of interest with the Sponsor, the partners of the Sponsor, the intended partners of the Sponsor, or with the general contractor.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c) and 50675.7(b)(3), Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7310. [Reserved].

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c), 50675.2(b) and 50675.7, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Repealer and reservation of section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7311. Over–Income Households.

(a) If, at the time of recertification, a tenant household's income exceeds the limit for an income level applicable to new tenants that is greater than the income limit designated for the household, and, to the extent a rent increase for the household is permitted by statutes and regulations governing the low income housing tax credit program, the Sponsor:

(1) shall redesignate the tenant's Unit as a Unit at the higher income level;

(2) shall increase the tenant's Rent to the level applicable to Units at the higher income level; and

(3) shall designate the next available comparable Unit as a Unit at the income level originally applicable to the household unit the Unit mix required by the Program regulatory agreement is achieved. A Unit shall be deemed "comparable" if it has the same number of bedrooms as the original Unit.

For example, in a Project where the income limits utilized to qualify new tenants are 20%, 40% and 50% of Area Median Income, if the income of a household occupying a Unit designated as a 20% Unit increases to 48% of Area Median Income, the Sponsor must redesignate the household's Unit as a Unit at the 50% level, increase the tenant's Rent to the level applicable to Units at the 50% level, and designate the next available comparable Unit as a Unit at the 20% income level.

(b) If at the time of recertification a tenant household's income exceeds the income limit designated for the household's Unit, but does not exceed the limit for a higher income level applicable to new tenants, the Sponsor may increase the household's Rent to an amount not exceeding the Rent limit applicable to the household's income level at the time of recertification. For purposes of this subsection, income levels shall not be limited to those applicable to new tenants, and shall consist of five percent increments of area median income. Continuing with the example described in the subsection (a), the income levels utilized to establish Rent limits upon recertification would be 20%, 25%, 30%, 35%, etc. A household occupying a Unit in this project with a 20% limit whose income, upon recertification, had increased to 32% of area median income could have their Rent increased to the Rent level applicable to the 35% income level.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.2(b), 50675.7 and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Repealer and new section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7312. Rent Standards.

The Department shall establish Rent limits for Assisted Units in each Project in accordance with the following:

(a) Rent limits for initial occupancy and for each subsequent occupancy by a new Eligible Household shall be based on Unit type, applicable income limit, and area in which the Project is located, following the calculation procedures used by TCAC and using the income limits recognized by TCAC for purposes of application scoring as well as the income limits utilized by the Program for this purpose pursuant to Section 7320(b)(1). The maximum Rent limit shall be 30% of 60% of Area Median Income for the appropriate Unit size.

(b) Rents will be further restricted in accordance with Rent and income limits submitted by the Sponsor in its application for the Program loan, approved by the Department, and set forth in the Regulatory Agreement. Rents shall not exceed 30% of the applicable income eligibility level.

(c) Rents in Assisted Units may be adjusted no more often than annually. The amount and method of adjustment for Assisted Units shall be in accordance with the regulations and procedures used by TCAC.

(d) The Department may permit an annual Rent increase greater than that permitted by this section if the Project's continued Fiscal Integrity is jeopardized due to factors that could not be reasonably foreseen.

(e) For Units receiving HUD Section 8 or other similar rental assistance, the rules of the rental assistance program pertaining to Rent increases will prevail for as long as the rental assistance remains in place. Changes in the tenant contribution amounts may occur more often than annually as required by the rental assistance program.

(f) Where a Project is receiving renewable Project-based rental assistance:

(1) the Sponsor shall in good faith apply for and accept all renewals available;

(2) the Sponsor shall fund a transition reserve to be used in the event the rental assistance contract is terminated. The transition reserve shall be in an amount sufficient to prevent, for two years, Rent increases for Units that formerly received rental assistance and were restricted to households with incomes not exceeding a percentage of State Median Income, expressed as a percentage of Area Median Income. The transition reserve may be capitalized or funded from annual project cash flow in amounts to be approved by the Department. Use of funds in the reserve shall be subject to the review and approval of the Department; and

(3) if the Project-based rental assistance is terminated, Rents for Units previously covered by this assistance may be increased above the levels allowed pursuant to subsection (c), above, but only to the minimum extent required for Fiscal Integrity, as determined by the Department. In addition, Rents for such Units restricted to households with incomes not exceeding a percentage of State Median Income, expressed as a percentage of Area Median Income, shall not in any event be increased to an amount in excess of 30% of 50% of Area Median Income, adjusted by number of bedrooms in accordance with TCAC requirements.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.2(b) and (c) and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7313. [Reserved].

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c), 50675.5 and 50675.8(a)(5), Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Repealer and reservation of section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7314. Limits on Design Features.

Except where required to secure local government approvals essential to completion of the Project, or where necessary to receive tax credits for historic preservation, costs associated with the following items are ineligible for funding with Program loan proceeds, and cannot be paid for from syndication proceeds or loans supported by Rents from Assisted Units:

(a) building and roof shapes, ornamentation and exterior finish schemes whose costs are in excess of the typical costs of these features in modestly designed rental housing;

(b) fireplaces, tennis courts, and similar amenities not typically found in modestly designed rental housing; and

(c) custom-made windows, ceramic tile floors and counters, hardwood floors, and similar features using materials not typically found in modestly designed rental housing, except where such materials have lower lifecycle costs due to lower operating, maintenance and replacement costs.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.5 and 50675.7(b), Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of section heading and section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7315. Relocation Requirements.

(a) The Sponsor of a Project resulting in displacement of residential tenants shall be solely responsible for providing the assistance and benefits set forth in this section and in applicable state and federal law, and shall agree to indemnify and hold harmless the Department from any liabilities or claims for relocation-related costs.

(b) All tenants of a property who are displaced as a direct result of the development of a Project shall be entitled to relocation benefits and assistance as provided in Title 1, Division 7, Chapter 16 of the Government Code, commencing at Section 7260, and Subchapter 1 of Chapter 6 of Title 25 of the California Code of Regulations, commencing at Section 6000. Displaced tenants who are not replaced with Eligible Households under this Program shall be provided relocation benefits and assistance from funds other than Program funds.

(c) The Sponsor shall prepare a relocation plan in conformance with the provisions of California Code of Regulations, Title 25, Section 6038. The relocation plan shall be subject to the review and approval by the Department prior to the disbursement of Program funds.

(d) All Eligible Households who are temporarily displaced as a direct result of the development of the Project shall be entitled, upon initial occupancy of the Rental Housing Development, to occupy Assisted Units meeting the tenant occupancy standards set forth in Section 8305 of this title.

(e) All in-Eligible Households who are temporarily displaced as a direct result of the development of the Project shall be entitled, upon initial occupancy of the Rental Housing Development, to occupy any available non-Assisted Units for which they qualify.

(f) Notwithstanding the preceding subsections, tenants who are notified in writing prior to their occupancy of an existing Unit that the Unit may be demolished as a result of funding provided under the Program shall not be eligible for relocation benefits and assistance under this section. The form of any notices used for this purpose shall be subject to Department approval.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Government Code, Title 1, Division 7, Chapter 16 (commencing with Section 7260).

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsection (d) filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7316. Construction Requirements.

(a) The Department may review Project plans and specifications to ensure the following objectives:

(1) Maintenance, repair, and replacement costs shall be minimized during the useful life of the Rental Housing Development through use of durable, low maintenance materials and equipment and design features that minimize wear and tear.

(2) Operating costs shall be minimized during the useful life of the Rental Housing Development.

(3) Tenant security shall be enhanced through features such as those designed to prevent or discourage unauthorized access and to allow for ready monitoring of public areas.

(4) Unit sizes, amenities, and general design features shall not exceed the standard for new developments rented at or below the market rent in the area of the Project, and Unit density shall not be substantially less than the average for new developments with such Units.

(b) The Sponsor shall ensure that the construction work for the Project is performed in a competent, professional manner at the lowest reasonable cost consistent with the Project's scope, design and locality and not in excess of the total funds available.

(c) The Sponsor shall enter into a written contract for the construction or Rehabilitation work with a contractor having the appropriate state license. The contract shall be subject to the prior approval of the Department to determine compliance with Program requirements.

(d) The construction contract shall be a completely integrated agreement containing all the understandings, covenants, conditions and representations between the parties and shall specify a total contract price consistent with the Project budget approved by the Department.

(e) The Sponsor shall ensure that the construction contract requires compliance with state prevailing wage law (Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720). The construction contract shall require the contractor to maintain labor records as required by law, and to make these records available to any enforcement agency upon request. Prior to the close of the Program loan, the Sponsor shall provide to the Department a certification that prevailing wages have been paid or will be paid, and that the records shall be available consistent with the requirements of this subsection.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.5 and 50675.7, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

Article 3. Application Procedures

§ 7317. Application Process.

(a) The Department shall periodically issue a Notice of Funding Availability (NOFA) that specifies, among other things, the amount of funds available, application requirements, the allocation of rating points, minimum eligibility threshold point scores, the deadline for submittal of applications, the schedule for rating and ranking applications and awarding funds, and the general terms and conditions of funding commitments. A NOFA may declare as ineligible those Project applications for which the Department has issued, or concurrently will issue, a special NOFA pursuant to subsection (c)(4), below.

(b) Applications selected for funding shall be approved at loan amounts, terms, and conditions specified by the Department. For each Project selected for funding, the Department shall issue an award letter and a conditional loan commitment.

(c) In order to implement goals and purposes of the Program, the Department may adopt measures to direct funding awards to designated Project types including, but not limited to, Rural Area Projects, Projects located in areas needing additional funding to achieve a reasonable geographic distribution of Program funds, Projects preserving continued affordability, and Projects with specified funding characteristics, including, but not limited to, Projects receiving an award of tax credits from TCAC. These measures may include, but are not limited to:

(1) Issuing a special NOFA for designated Project types.

(2) Awarding bonus points within a particular NOFA to designated Project types.

(3) Reserving a portion of funds in the NOFA for designated Project types.

(4) Notwithstanding anything in these regulations to the contrary, a special NOFA issued pursuant to this subsection may establish an over-the-counter application process, meaning the Department continuously accepts and rates applications according to minimum threshold criteria published in a NOFA for the process, and makes loans to Projects that meet or exceed these criteria until the funding available for the process is exhausted. At a minimum, a special NOFA shall include a description of the application process and funding conditions, shall require compliance with Section 7320(a), and shall establish minimum funding threshold criteria based on the rating criteria set forth in Section 7320(b).

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c), 50675.6 and 50675.7, Health and Safety Code.

HISTORY

1. New article 3 (sections 7317-7320) and section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7318. Application Requirements.

(a) Application shall be made on a form made available by the Department requesting the information required by Multifamily Housing Program Regulations.

(b) An application shall be deemed complete when the Department is able to review the application and assess the proposed Project's feasibility pursuant to Section 8310 of this title and to determine from the information provided whether the Project is eligible for rating and ranking pursuant to Section 7320.

(c) Submission of an application by the applicant and a co-applicant must be authorized by resolutions of the governing boards of both the applicant and co-applicant, unless the applicants are individuals.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.6 and 50675.7, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsection (b) filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7319. [Reserved].

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Section 50675.7, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Repealer and reservation of section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7320. Project Selection.

(a) Projects shall not be eligible for an award of funds unless the application demonstrates that all of the following conditions exist:

(1) The applicant is an eligible Sponsor pursuant to Section 7303;

(2) The Project involves an eligible Project pursuant to Section 7302;

(3) All proposed uses of Program funds are eligible pursuant to Section 7304;

(4) The application is complete pursuant to Section 7318;

(5) The Project will maintain Fiscal Integrity consistent with proposed Rents in the Assisted Units and is feasible pursuant to Section 8310 of this title;

(6) The Project site is free from severe adverse environmental conditions, such as the presence of toxic waste that is economically infeasible to remove and that cannot be mitigated;

(7) The Project site is reasonably accessible to public transportation, shopping, medical services, recreation, schools, and employment in relation to the needs of the Project tenants;

(8) In Projects targeting Special Needs Populations, the Project will provide services suitable to the needs of the tenants, and the application demonstrates a specific, feasible plan for delivery and funding of those services including identification of service partners and funding sources; and

(9) The Project complies with the requirements of Sections 8302 and 8303 of this title.

(b) Applications shall be reviewed by the Department to determine compliance with subsection (a), above, and shall be rated and ranked in accordance with this subsection (b). Applications shall be ranked in the order of their point scores. The Department may establish a preliminary point score and ranking for applications prior to determining their compliance with subsection (a), above. If an application will not be within a fundable range as indicated by the preliminary ranking, the Department is not required to determine the application's compliance with subsection (a), above. Additional or alternative scoring may be implemented in particular NOFA's for designated Project types as described above in Section 7317(c).

The following criteria shall be used to rate applications:

(1) The extent to which the Project serves households at the lowest income levels — 35 points maximum.

Applications will be scored based on the percentage of Restricted Units limited to various percentages of the State Median Income, expressed as a percentage of Area Median Income and adjusted by household size, and in accordance with the following schedules:

High Income Areas

For purposes of this subchapter, "high income areas" means counties with Area Median Incomes that exceed 110% of the State Median Income.

(A) 0.75 points will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes less than or equal to 40% of State Median Income, expressed as a percentage of Area Median Income.

(B) 1 point will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes less than or equal to 35% of State Median Income, expressed as a percentage of Area Median Income.

(C) 1.5 points will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes not exceeding 20% of State Median Income (adjusted by the Department to avoid exclusion of working CalWORKs recipients and individuals receiving SSI and expressed as a percentage of Area Median Income) for the first 10% of total Restricted Units; then 1 point for each subsequent percent of total Restricted Units.

Point scores will be rounded to the nearest one hundredth point in this category.

Other Areas

(D) .75 points will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes less than or equal to 35% of State Median Income, expressed as a percentage of Area Median Income.

(E) 1 point will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes less than or equal to 30% of State Median Income, expressed as a percentage of Area Median Income.

(F) 1.5 points will be awarded for each percent of Restricted Units that are Restricted Units for households with incomes not exceeding 20% of State Median Income (adjusted by the Department to avoid exclusion of working CalWORKs recipients and individuals receiving SSI and expressed as a percentage of Area Median Income) for the first 10% of total Restricted Units; then 1 point for each subsequent percent of total Restricted Units.

In Projects that rely on renewable Project-based rental assistance contracts to maintain Fiscal Integrity consistent with the targeted income limits (and associated tenant Rents), scores will be based on the income limits and Rents applicable under the rent subsidy contract.

Point scores will be rounded to the nearest one hundredth point in this category.

(2) The extent to which the Project addresses the most serious identified local housing needs — 15 points maximum.

(A) 5 points will be awarded based on the receipt of:

1. a letter from the local housing agency, or city, or county in which the proposed Project will be located, stating that the proposed Project will address a serious local housing need as identified in a specific local policy document; or

2. for Projects with a minimum of 70% of Project Units reserved for Special Needs Populations, a letter from a local government entity responsible for delivery of Special Needs Populations' services, stating that the proposed Project will address a serious local housing need related to Special Needs Populations served by the Project.

(B) Projects will receive 10 additional points if:

1. at least 70% of the total Units are reserved for Special Needs Populations; or

2. at least 70% of the total Units have 2 or more bedrooms, and they are located in one of the following counties: San Diego, Orange, Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Monterey, Santa Cruz, San Mateo, Santa Clara, San Francisco, Alameda, Contra Costa, Napa, Solano, Marin or Sonoma.

(C) For Projects not meeting the requirements of subsection (b)(2)(B), above, up to 10 points will be awarded on the basis of vacancy rate comparisons with competitive developments as described in subparagraph (3), below. (For purposes of the following vacancy rate comparison, Units reserved for Special Needs Populations in the proposed Project and competitive Projects shall not be considered.)

1. Competitive developments are multifamily rental developments with Units similar to those in the Project, which are not severely dilapidated, are not being purposely held vacant or partially vacant, and are not affected by some other unique situation that is artificially depressing occupancy levels. If the proposed Project is for the elderly, competitive Projects must be limited to this population;

2. Units similar to those in the Project are defined as Units with the same number of bedrooms and bathrooms. Where the proposed Project contains 3 or 4 bedroom Units and where 3 or 4 bedroom multifamily rental developments do not exist in the market area of the proposed Project, competitive developments will be those multifamily rental developments containing the largest Units in the market area of the proposed Project while meeting the requirements of subparagraph (1.), above;

3. Points will be awarded on the basis of either the weighted average vacancy rate, as documented by the Sponsor, of 5 or more competitive developments, nearest the proposed Project, or the vacancy rate for competitive Projects as determined by a market study, performed by a qualified third party in accordance with the Department's application of TCAC Market Study Guidelines dated February 2002 except that market studies for proposed elderly Projects shall be limited to competitive elderly developments as follows:

(i) 10 points will be awarded if the vacancy rate is lower than 3%.

(ii) 5 points will be awarded if the vacancy rate is at least 3% but less than or equal to 5%.

(3) The development and ownership experience of the Project Sponsor — 20 points maximum.

(A) Applications will be scored based on the number of subsidized Rental Housing Developments (including tax credit Projects) that the Sponsor has completed over the last 5 years and whether they have identified performance problems.

(B) A Sponsor may include the experience of its affiliated entities or its principals (e.g., employees responsible for managing development activities), but not the experience of non-management board members. A Sponsor may include the experience of a partner in order to gain experience points; however, the experienced partner must have a controlling interest in the partnership and a substantial and continued role in the Project's ongoing operations, as evidenced in partnership documents. In such cases, points will be awarded based only on the experience of the more experienced partner. Any dissolution of the partnership or withdrawal of the more experienced partner will require prior written approval by the Department.

(C) To be counted towards experience pursuant to subsection (b)(3), above, completed Projects cited for experience points must contain 10 or more Units, except if the proposed Project contains less than 15 Units and at least 70% of the total Units in the proposed Project are reserved for Special Needs Populations, completed Projects submitted for experience points must contain at least 5 Units.

(D) 4 points will be awarded for each Project completed in the 5 years preceding the application due date, up to a maximum of 20 points.

(E) Where at least 70% of the Units in the proposed Project are reserved for Special Needs Populations, the Sponsor may elect to have its application scored based on the lesser of:

1. The number of subsidized Rental Housing Developments that the Sponsor's development consultant or contracted developer has completed in the last five years;

2. The number of subsidized Rental Housing Developments that the Sponsor, or affiliates or principals of the Sponsor either own or operate under a long-term lease or other arrangement that involves all responsibilities commensurate with ownership.

To qualify for scoring under this alternative, the Sponsor must contract with the developer or development consultant for comprehensive development services, including financial packaging, selection of other consultants, selection of the construction contractor and property management agent, oversight of architectural design, construction management, and other major aspects of the development process.

Applications scored under this alternative shall be awarded 4 points per Rental Housing Development, up to a maximum of 20 points.

(F) 5 points will be deducted for each occurrence or event in the following categories, with a maximum deduction of 10 points per category and a maximum total deduction of 50 points:

1. removal or withdrawal under threat of removal as general partner;

2. failure to submit, when due, compliance documentation required under the Department Program;

3. use of reserve funds for Department–assisted Projects in a manner contrary to Program requirements, or failure to deposit reserve funds as required by the Department;

4. failure to provide promised supportive services to a Special Needs Population or other tenants of a publicly funded Project;

5. other significant violations of the requirements of Department programs or of the programs of other public agencies, such as the failure to adequately maintain a Project or the books and records thereof.

Events occurring in connection with Projects under the control of the Sponsor shall be used as the basis for point deductions. Such events shall have had a detrimental effect on the Project or the Department's ability to monitor the Project, as determined by the Department. Events shall not result in the deduction of points if they have been fully resolved as determined by, or to the satisfaction of, the Department as of the application due date.

(4) The percentage of Units for families or Special Needs Populations and "at–risk" Rental Housing Developments — 35 points maximum.

Applications will be scored based on the percentage of Project Units that will have 2 or more bedrooms, or that are reserved for Special Needs Populations. Projects must have at least 5 Units reserved for Special Needs Populations to receive points for Special Needs Populations' Units. To receive points for Special Needs Populations' Units, a complete and detailed supportive services plan acceptable to the Department, describing services appropriate to the needs of the targeted population, a line item budget, and documentation identifying proposed funding sources must accompany the application, along with detailed documentation acceptable to the Department describing the experience and capacity of the services provider.

(A) .2 points will be awarded for each percent of total Project Units that have 2 bedrooms.

(B) .7 points will be awarded for each percent of total Project Units that have 3 or more bedrooms.

(C) 1 point will be awarded for each percent of total Project Units that are reserved for a Special Needs Population or Populations.

(D) Projects approved by the Department as "at–risk", as defined by TCAC Regulations, will receive 35 points in this category.

Point scores will be rounded to the nearest one hundredth point in this category.

(5) Leverage of other funds, in those jurisdictions where they are available — 20 points maximum.

Applications will be scored based on the leverage of other funds, meaning the amount of non–Program funds for permanent funding of the development costs attributable to the Restricted Units, as a percentage of the requested amount of Program funds. Deferred developer fees will not be counted as leveraged funds. Land donations will be counted as leveraged funds where the value is established with a current appraisal. One–half point will be awarded for each full 5–percentage point increment above 100%. Rural Area Projects will be awarded one–half point for each full 5–percentage point increment above 50%. For example, a non–Rural Area Project where other funds are equal to 100% of requested Program funds will receive zero (0) points, a Project where other funds equal 150% will receive 5 points, a Project where other funds equal 250% will receive 15 points, and a Project where non–Program funds equal 300% of requested Program funds will receive the maximum 20 points.

(6) Project Readiness — 15 points maximum.

(A) 2.5 points will be awarded to Projects for each of the following circumstances as documented in the application. If a particular category is not applicable, full points shall be awarded in that category.

1. obtaining enforceable commitments for all construction financing, not including tax–exempt bonds, 4% tax credits, and funding to be provided by another Department program. Funds from other Department programs proposed for construction financing for the Project must be awarded prior to final rating and ranking for the MHP application;

2. completion of all necessary environmental clearances (California Environmental Quality Act and National Environmental Policy Act) and of a Phase I Environmental Site Assessment;

3. obtaining all necessary and discretionary public land use approvals except building permits and other ministerial approvals;

4. either:

(a) the Sponsor has fee title ownership to the site or a long–term leasehold securing the site meeting the criteria for Program site control; or

(b) the Sponsor can demonstrate that the working drawings are at least 50% complete, as certified by the Project architect;

5. obtaining local design review approval to the extent such approval is required;

6. obtaining commitments for all deferred–payment financing, grants and subsidies, in accordance with TCAC requirements and with the same exceptions as allowed by TCAC. Deferred–payment financing, grant funds and subsidies from other Department programs proposed for Project financing must be awarded prior to final rating and ranking for the MHP application.

(7) Adaptive Reuse/Infill/Proximity to Amenities — 10 points maximum.

The following criteria shall apply only to applications requesting funds appropriated pursuant to Section 53533(a)(1) of the Health and Safety Code.

Applications will receive 10 points for meeting any of the following three conditions. Applications not meeting any one of these three conditions will not receive points pursuant to this criterion.

(A) Adaptive reuse. The Project will be located in a developed area served with public infrastructure and shall consist of the rehabilitation of vacant or underused commercial or industrial buildings.

(B) Infill development. The Project will be located in a developed area.

(C) Proximity to amenities. The Project will be proximate to public transit, public schools, public parks, or public recreational facilities, as determined by TCAC regulations that would result in TCAC scoring points given thereto; or the Project will be located within one mile of a Job Center. A Job Center is a concentration of employment opportunities reasonably available to the tenants of the Project.

(c) In the event of tied point scores, the Department shall rank tied applications based on the lowest weighted average affordability of Restricted Units, which shall be computed as follows:

(1) Multiplying each income limit applicable to the Project by the number of Units restricted at that income level.

(2) Adding the products calculated pursuant to the previous subsection.

(3) Dividing the sum calculated pursuant to the previous subsection by the number of Restricted Units in the Project.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.4, 50675.5, 50675.6 and 50675.7, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 4. Program Operations

§ 7321. Legal Documents.

(a) Upon the award of Program funds to a Project, the Department shall enter into one or more agreements with the Sponsor, which may be in the form of a conditional commitment letter issued by the Department and accepted by the Sponsor, which shall commit monies from the Fund in an amount sufficient to fund the approved loan amount. The agreement or agreements shall contain the following:

(1) a description of the approved Project and the permitted uses of Program funds;

(2) the amount and terms of the loan;

(3) the regulatory restrictions to be applied to the Project through the Regulatory Agreement;

(4) provisions governing the construction work and, as applicable, the acquisition of the Project site, and the disbursement of loan proceeds;

(5) special conditions imposed as part of Department approval of the Project;

(6) requirements for the execution and the recordation of the agreements and documents required under the Program;

(7) terms and conditions required by federal or state law;

(8) requirements regarding the establishment of escrow accounts for the deposit of documents and the disbursement of loan proceeds;

(9) the approved schedule of the Project, including land acquisition if any, commencement and completion of construction or Rehabilitation work, and occupancy by Eligible Households;

(10) the approved Project development budget and sources and uses of funds and financing;

(11) requirements for reporting to the Department;

(12) terms and conditions for the inspection and monitoring of the Project in order to verify compliance with the requirements of the Program;

(13) provisions regarding tenant relocation;

(14) provisions relating to the erection and placement on or in the vicinity of the Project site a sign indicating that the Department has provided financing for the Project. The Department may also arrange for publicity of the Program loan in its sole discretion; and

(15) other provisions necessary to ensure compliance with the requirements of the Program.

(b) The Department shall enter into a Regulatory Agreement with the Sponsor for not less than the original term of the loan that shall be recorded against the Project property title prior to the disbursement of funds. The Regulatory Agreement shall include, but not be limited to, the following:

(1) the number, type and income level of Assisted Units pursuant to Section 8304 of this title;

(2) standards for tenant selection pursuant to Section 8305 of this title;

(3) provisions regulating the terms of the rental agreement pursuant to Section 8307 of this title;

(4) provisions related to an annual operating budget approved by the Department pursuant to Section 7326;

(5) provisions related to a management plan pursuant to Section 7324;

(6) provisions related to a Rent schedule, including initial Rent levels for Assisted Units and non-Assisted Units pursuant to subsections (a) and (b) of Section 7312;

(7) conditions and procedures for permitting Rent increases pursuant to Section 7312;

(8) provisions for limitations on Distributions pursuant to Section 8314 of this title;

(9) provisions relating to annual reports, inspections and independent audits pursuant to Section 7325;

(10) provisions regarding the deposit and withdrawal of funds to and from reserve accounts;

(11) assurances that the Rental Housing Development will be maintained in a safe and sanitary condition in compliance with state and local housing codes and the management plan, pursuant to Section 7324;

(12) description of the conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;

(13) provisions governing use and operation of non-Assisted Units and common areas to the extent necessary to ensure compliance with Program requirements;

(14) provisions relating to enforcement of Program requirements by tenants;

(15) special conditions of loan approval imposed by the Department;

(16) provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the Sponsor and that all sales, transfers, and encumbrances shall be subject to Section 7322;

(17) for Projects serving Special Needs Populations and/or providing services to the general tenant population, provisions regarding the implementation and maintenance of services and facilities for the targeted Special Needs Population group and/or general tenant population; and

(18) other provisions necessary to assure compliance with the requirements of the Program.

(c) All loans shall be evidenced by a promissory note payable to the Department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the Program. The note shall be secured by a deed of trust on the Project property naming the Department as beneficiary or by other security acceptable to the Department; this deed of trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the Department and shall secure the Department's financial interest in the Project and the performance of Sponsor's Program obligations.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1, 50675.6 and 50675.8, Health and Safety Code.

HISTORY

1. New article 4 (sections 7321–7326) and section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsections (b)(1)–(b)(3), (b)(7) and (b)(8) filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7322. Sales, Transfers, and Encumbrances.

(a) A Sponsor shall not sell, assign, transfer, or convey the Rental Housing Development, or any interest therein or portion thereof, without the express prior written approval of the Department. A sale, transfer or conveyance shall be approved only if all of the following requirements are met:

(1) the existing Sponsor is in compliance with the Regulatory Agreement, or the sale, transfer or conveyance will result in the cure of any existing violations;

(2) the successor-in-interest to the Sponsor agrees to assume all obligations of the existing Sponsor pursuant to the Regulatory Agreement and the Program;

(3) the successor-in-interest is an eligible Sponsor and demonstrates to the Department's satisfaction that it can successfully own and operate the Rental Housing Development and comply with all Program requirements; and

(4) no terms of the sale, transfer, or conveyance jeopardize either the Department's security or the successor's ability to comply with all Program requirements.

(b) If the Sponsor or its successor-in-interest is a partnership, the Sponsor shall not discharge or replace any general partner or amend, modify or add to its partnership agreement, or cause or permit the general partner to amend, modify or add to the organizational documents of the general partner, without the prior written approval of the Department. The Sponsor may transfer limited partnership interests without the prior written approval of the Department.

(c) The Department shall grant its approval of a sale, assignment, transfer, or conveyance subject to such terms and conditions as may be

necessary to preserve or establish the Fiscal Integrity of the Project. Such conditions may include:

(1) the deposit of sales proceeds, or a portion thereof, to maintain required reserves, or to offset negative cash flow;

(2) the recapture of syndication proceeds or other funds in accordance with special conditions included in any agreement executed by the Sponsor; or

(3) such conditions as may be necessary to ensure compliance with the Program requirements.

(d) The Sponsor shall not encumber, pledge, or hypothecate the Rental Housing Development, or any interest therein or portion thereof, or allow any lien, charge, or assessment against the Rental Housing Development without the prior written approval of the Department. The Department may permit refinancing of existing liens or additional financing secured by the Rental Housing Development to the extent necessary to maintain or improve the Fiscal Integrity of the Project, to maintain Affordable Rents, or to decrease Rents.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1 and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7323. Defaults and Loan Cancellations.

(a) In the event of a breach or violation by the Sponsor of any of the provisions of the Regulatory Agreement, the promissory note, or the deed of trust, or any other agreement pertaining to the Project, the Department may give written notice to the Sponsor to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the Department within the specified time period, the Department, at its option, may declare a default under the relevant document(s) and may seek legal remedies for the default including the following:

(1) The Department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amounts in full, the Department may proceed with a foreclosure in accordance with the provisions of the deed of trust and state law regarding foreclosures.

(2) The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to operate the Rental Housing Development in accordance with Program requirements.

(3) The Department may seek such other remedies as may be available under the relevant agreement or any law.

(b) If the breach or violation involves charging tenants Rent or other charges in excess of those permitted under the Regulatory Agreement, the Department may demand the return of such excess Rents or other charges to the respective households. In any action to enforce the provisions of the Regulatory Agreement, the Department may seek, as an additional remedy, the repayment of such overcharges.

(c) The Department may cancel Loan commitments under any of the following conditions:

(1) the objectives and requirements of the Program cannot be met;

(2) implementation of the Project cannot proceed in a timely fashion in accordance with the approved plans and schedules;

(3) special conditions have not been fulfilled within required time periods; or

(4) there has been a material change, not approved by the Department, in the principals or management of the Sponsor or Project. The Department, in writing and upon demonstration by the Sponsor of good cause, may extend the date for compliance with any of the conditions in this subsection.

(d) Upon receipt of a notice from the Department of intent to cancel the loan, the Sponsor shall have the right to appeal to the Director.

(e) The Department may use amounts in the Fund to cure or avoid a Sponsor's default on the terms of any loan or other obligation that jeopardizes the Fiscal Integrity of a Project or the Department's security in the Project. Such defaults may include defaults or impending defaults in payments on mortgages, failures to pay taxes, or failures to maintain insurance or required reserves. The payment or advance of funds by the Department pursuant to this subsection shall be solely within the discretion of the Department and no Sponsor shall be entitled to or have any right to payment of these funds. All funds advanced pursuant to this subsection shall be part of the Program loan and, upon demand, due and payable to the Department. Where it becomes necessary to use the Fund to assist a Project to avoid threatened defaults or foreclosures, the Department shall take those actions necessary, including, but not limited to, foreclosure or forced sale of the Project property, to prevent further, similar occurrences and ensure compliance with the terms of the applicable agreements.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1, 50675.8 and 50675.10, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7324. Management and Maintenance.

(a) The Sponsor shall be responsible for all management functions of the Rental Housing Development including selection of the tenants, annual recertification of household income and size, evictions, and collection of Rent.

(b) The Sponsor is responsible for all repair and maintenance functions of the Rental Housing Development, including ordinary maintenance and replacement of capital items. The Sponsor shall ensure maintenance of residential Units, Commercial Space and common areas in accordance with local health, building, and housing codes, and the management plan.

(c) The Sponsor shall ensure that the Rental Housing Development is managed by an entity approved by the Department that is actively in the business of managing low-income housing. Any management contract entered into for this purpose shall be subject to Department approval and contain a provision allowing the Sponsor to terminate the contract upon 30-days' notice. The Sponsor shall terminate said contract as directed by the Department upon determination that management does not comply with Program requirements.

(d) The Sponsor shall develop a management plan subject to Department approval prior to loan closing. Any change to the plan shall be subject to the approval of the Department. The plan shall be consistent with Program requirements and shall include the following:

(1) the role and responsibility of the Sponsor and its delegation of authority, if any, to the managing agent;

(2) personnel policy and staffing arrangements;

(3) plans and procedures for publicizing and achieving early and continued occupancy;

(4) procedures for determining tenant eligibility and selecting tenants and for certifying and annually recertifying household income and size;

(5) plans for carrying out an effective maintenance and repair program;

(6) Rent collection policies and procedures;

(7) a program for maintaining adequate accounting records and handling necessary forms and vouchers;

(8) plans for enhancing tenant-management relations;

(9) the management agreement, if any;

(10) provisions for periodic update of the management plan;

(11) appeal and grievance procedures;

(12) plans for collections for tenant-caused damages, processing evictions and terminations; and

(13) for Projects serving Special Needs Populations and/or providing special services to the general tenant population, a supportive services plan, that includes:

(A) a description of the services to be provided;

(B) a preliminary services budget;

(C) funding source(s);

(D) identification of the organization(s) that will provide services;

(E) a preliminary staffing plan;

(F) location of services to be provided off site; and

(G) any special eligibility requirements for the services.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1 and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsections (d) and (d)(4) filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7325. Reporting.

No later than 90 days after the end of each Project fiscal year, the Sponsor shall submit an independent audit of the Rental Housing Development prepared by a certified public accountant in accordance with Department audit requirements, as specified in the Department's Rental Housing Construction Program Information Memorandum dated August 14, 1995, as periodically updated and incorporated by reference. Upon a determination that the cost of meeting this requirement exceeds the potential benefits from it to the Department and to the tenants of the Rental Housing Development, the Department may:

(a) reduce the required frequency of the audit;

(b) accept an audited financial statement in lieu of the audit; or

(c) waive this requirement completely.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1 and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7326. Operating Budget.

(a) Prior to loan closing, the Sponsor shall submit an initial operating budget to the Department. Such budget shall show all anticipated income; expenses for management, operations and maintenance; debt service; and reserve deposits for the Initial Operating Year.

(b) For as long as deemed necessary by the Department to ensure compliance with Program requirements, the Sponsor shall submit to the Department for its approval, 60 days prior to the end of each Project fiscal year, a proposed operating budget. The proposed operating budget shall set forth the Sponsor's estimate of the Project's Operating Income, Operating Expenses, debt service for the upcoming year, and any proposed Rent increases pursuant to Section 7312. In lieu of the requirement for submission of complete proposed operating budgets, the Department may require submission of limited budget information, such as a proposed Rent schedule, proposed management fees, and reserve deposit amounts. The Department may re–impose the requirement for submission of complete operating budgets where necessary to ensure compliance with Program requirements.

(c) The initial and subsequent proposed operating budgets, where required, shall be subject to the approval of the Department based on its determination that the budget line items are reasonable and necessary in light of costs for comparable Rental Housing Developments and prior year budgets. Actual expenditures in excess of the approved budget amount shall be subject to Department approval.

(d) The initial operating budget and subsequent proposed operating budgets shall include periodic deposits to the operating reserve, replacement reserve, and any other reserve account required by the Department in accordance with the requirements of Sections 8308 and 8309 of this title.

(e) For Projects with non–Assisted Units or Commercial Space, all budgets submitted pursuant to this section shall show income and uses of income allocated among Assisted Units, Restricted Units, non–Restricted Units, and Commercial Space. The allocation method used for each budget line item shall be subject to Department approval, and shall apportion income and expenses in a manner that accurately reflects the particular physical, operational and economic characteristics of the Project.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1 and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsection (d) filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 5. Rent Write–Down Loans

§ 7327. General.

(a) This Article 5 governs Program loans designated as Rent Write–Down (RWD) loans for the purpose of lowering income limits and corresponding Rent levels for Low Income Housing Tax Credit Program Projects that are otherwise feasible without the use of Program funds.

(b) This article will govern the award, terms, conditions and uses of RWD loans only. Except where specifically noted the provisions of Articles 1, 2, 3 and 4 do not govern RWD loans

NOTE: Authority cited: Sections 50406(n), 50675.1, and 50675.11, Health and Safety Code. Reference: Sections 50675.2(c), 50675.4(c)(1), and 50675.5(b)(8), Health and Safety Code.

HISTORY

1. New article 5 (sections 7327–7336) and section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7328. [Reserved].

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675, 50675.1(c) and 50675.2, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Repealer and reservation of section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7329. Eligibility for RWD Loans.

(a) In order to receive an RWD loan, the Project must:

(1) have received an award of 9% or 4% tax credits from TCAC;

(2) include the new construction or Rehabilitation of a Rental Housing Development, or conversion of a nonresidential structure to a Rental Housing Development;

(3) have sufficient financing and funding commitments to demonstrate that the Project is feasible at marketable rents without the use of Program funds;

(4) not receive other funds from the Program; and

(5) not have completed construction at the time of the award of Program funds, as evidenced by the lack of a recorded notice of completion or comparable indicator of construction status.

(b) The Sponsor may be any entity qualified to receive a tax credit allocation from TCAC.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: 50675.2(d), 50675.4 and 50675.7, Health and Safety Code.

HISTORY

1. New section filed 1–8–2002; operative 1–8–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7330. Amounts and Terms for RWD Loans.

(a) RWD loan amounts shall be limited to the sum of a base amount per Assisted Unit plus the amount required to:

(1) reduce Rents from the rent structure for Assisted Units that would apply without RWD assistance to the proposed restricted Rents for Assisted Units, by either substituting Program funds for amortized debt or capitalizing a rent subsidy reserve; and

(2) preserve Project cash flow at the level that would be generated without participation in the RWD program.

The initial base amount shall be $3,000. The Department may periodically adjust the base amount to equal the lowest amount necessary to ensure sufficient demand for Program funds, taking into account factors such as the previous demand for RWD funds and the total amount of Program funds available for award under the RWD component.

(b) RWD funds may be used to capitalize a reserve only if it is not feasible to reduce Rents and maintain Project cash flow by substituting

RWD funds for amortized debt. The amount of the capitalized reserve shall not exceed the amount needed to reduce Rents and preserve cash flow at the level that would apply without RWD assistance for a period of 20 years. Thereafter the Assisted Units shall continue to be occupied by eligible households at affordable Rents for the remaining term of the Regulatory Agreement. The Department shall disburse the funds in a manner to ensure the fiscal integrity of the Project for the 20-year period.

(c) Program funds shall be used for post-construction, permanent financing only, except under an agreement with California Housing Finance Agency to provide construction period financing to eligible projects receiving financing from both California Housing Finance Agency and the Program.

(d) The interest rate and loan repayment terms shall be as set forth in Section 7308.

(e) The initial term of the loan shall be 55 years, commencing on the date of recordation of the Program loan documents.

(f) Upon request by the Sponsor, the Department may approve a 10-year extension of the loan term if the Department determines both of the following are met:

(1) The Sponsor is in compliance with the Regulatory Agreement and other Program loan documents and agrees to continue to comply during the extended term.

(2) The extension is necessary to continue operations consistent with Program requirements.

The Department may condition the extension on such terms as it deems necessary to ensure compliance with the requirements of the Program.

(g) The Program loan shall be secured by the Project real property and improvements, subject only to liens, encumbrances and other matters of record approved by the Department.

NOTE: Authority cited: 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.6 and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsections (b)-(c) and (f)(1) filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7331. Occupancy and Rent Requirements

(a) Upon initial occupancy, Assisted Units shall be restricted to one or more of the following income levels: 20%, 30%, 35%, or 40% of State Median Income, expressed as a percentage of Area Median Income. Rents for Assisted Units shall not exceed 30% of the applicable income limit.

(b) No more than 30% of the total Units in a Project assisted with a RWD loan may be funded as Assisted Units.

(c) The Sponsor shall provide relocation benefits and assistance for tenants directly displaced as a result of RWD funds.

(d) Assisted Units shall not differ substantially in size or amenity level from non-Assisted Units with the same number of bedrooms, and Units shall not differ in size or amenity level on the basis of income-level restrictions. Assisted Units shall not be segregated from non-Assisted Units, and Units shall not be segregated from each other on the basis of income-level restriction. Within these limits, Sponsors may change the designation of a particular Unit from Assisted to non-Assisted or from one income-restriction to another over time. For Projects involving Rehabilitation or conversion, the Department may permit certain Units to be designated as exclusively market-rate Units where necessary for Fiscal Integrity and where all other Program requirements are satisfied.

(e) The number, size, type, and amenity level of Assisted Units shall not be fewer than the number nor different from the size, type and amenity level described in the Regulatory Agreement for the full loan term.

(f) Sponsors shall select only Eligible Households as tenants of Assisted Units, and shall annually recertify household income and size to determine continued eligibility. If, at the time of tenant recertification, a household's income exceeds the income limit designated for the household's Unit by more than 10% of State Median Income, the Sponsor shall increase the household's Rent to the level applicable to other households with similar incomes, and shall designate the next available Unit as an Assisted Unit restricted for occupancy by households at the income level formerly applicable to the first Unit until the mix required by the Regulatory Agreement is achieved.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: 50675.2(b) and (c) and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).
2. Amendment of subsection (a) filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7332. Application Process.

(a) The Department may issue a NOFA limited to RWD loans and as authorized by Section 7317(c)(4). The NOFA shall specify the amount of RWD funds available, the period during which loan applications may be accepted and the specific requirements of the RWD loan application. The NOFA may establish a minimum point total for rating Projects pursuant to the criteria set forth in Section 7320(b) or similar TCAC criteria, and may provide that Projects meeting or exceeding that minimum score may be eligible for funding so long as funds are available.

(b) Projects shall not be eligible for an award of funds unless the application demonstrates that all of the following conditions exist:

(1) The application meets the eligibility requirements pursuant to Section 7329; and

(2) The application is complete. Applications shall be deemed complete when the Department is able to assess that the Project is eligible pursuant to Section 7329 and to rate the Project pursuant to Section 7332(a).

(c) The application shall be made on a form made available by the Department requesting the information required by the Multifamily Housing Program Regulations and shall include the proposed number of Assisted Units and the income and Rent levels to be achieved in the Assisted Units as a result of the RWD loan. The application shall also specify the proposed use of the proceeds of the RWD loan, which may include a capitalized rent reserve fund or a reduction in the approved permanent amortized financing for the Project.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c), 50675.6 and 50675.1(d), Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7333. Legal Documents.

(a) The provisions of Section 7321(a) shall apply to loans made under this article.

(b) The Department shall enter into a Regulatory Agreement with the Sponsor for not less than the original term of the loan that shall be recorded against the Project property title prior to the disbursement of funds. The Regulatory Agreement shall include, but not be limited to, the following:

(1) the number, type and income level of Assisted Units pursuant to Section 7331;

(2) provisions related to a management plan pursuant to Section 7324;

(3) provisions related to a Rent schedule, including initial Rent levels for Assisted Units and non-Assisted Units pursuant to subsections (a) and (b) of Section 7331;

(4) conditions and procedures for permitting Rent increases;

(5) provisions relating to annual reports, inspections and independent audits pursuant to Section 7325;

(6) provisions regarding the deposit and withdrawal of funds to and from reserve accounts;

(7) assurances that the Rental Housing Development will be maintained in a safe and sanitary condition in compliance with state and local housing codes and the management plan, pursuant to Section 7324;

(8) description of the conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;

(9) provisions governing use and operation of non-Assisted Units and common areas to the extent necessary to ensure compliance with Program requirements;

(10) provisions relating to enforcement of Program requirements by tenants;

(11) special conditions of loan approval imposed by the Department;

(12) provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the Sponsor and that all sales, transfers, and encumbrances shall be subject to Section 7322;

(13) for Projects serving Special Needs Populations and/or providing services to the general tenant population, provisions regarding the implementation and maintenance of services and facilities for the targeted Special Needs Population group and/or general tenant population; and

(14) other provisions necessary to assure compliance with the requirements of the Program.

(c) All loans shall be evidenced by a promissory note payable to the Department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the Program. The note shall be secured by a deed of trust on the Project property naming the Department as beneficiary or by other security acceptable to the Department; this deed of trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the Department and shall secure the Department's financial interest in the Project and the performance of Sponsor's Program obligations.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c), 50675.6 and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7334. Sales, Transfers, Encumbrances, Defaults, and Cancellations.

(a) the provisions of Sections 7322 and 7323 shall apply to this article.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c), 50675.8 and 50675.10, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7335. Management and Maintenance.

(a) the provisions of Section 7324 shall apply to this article.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11, Health and Safety Code. Reference: Sections 50675.1(c) and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

§ 7336. Reporting.

(a) the provisions of Section 7325 shall apply to this article.

NOTE: Authority cited: Sections 50406(n), 50675.1(c) and 50675.11 Health and Safety Code. Reference: Sections 50675.1(c) and 50675.8, Health and Safety Code.

HISTORY

1. New section filed 1-8-2002; operative 1-8-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 2).

Article 6. Supportive Housing Loans

§ 7340. General.

(a) This Article 6 governs Projects funded pursuant to Health and Safety Code Sections 50675.14 and 53533(a)(3) for the purpose of providing loans to supportive housing Projects.

(b) The provisions of Articles 1, 2, 3 and 4 of this subchapter 4 apply to assistance made available pursuant to this Article 6 except as modified herein.

NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c) and 53533(a)(3), Health and Safety Code. Reference: Sections 50675, 50675.14 and 53533(a)(3), Health and Safety Code.

HISTORY

1. New article 6 (sections 7340-7347) and section filed 4-14-2005; operative 5-14-2005 (Register 2005, No. 15).

§ 7341. Definitions.

For the purposes of this Article, in addition to the definitions in Section 7301 and Section 8301, the following definitions shall apply:

(a) "Supportive Housing Unit" means a Unit of permanent housing linked to supportive services restricted to occupancy by an Eligible Household and which meets all of the following requirements:

(1) Occupancy is restricted to Eligible Households that are Homeless or At Risk of Homelessness and that include a Disabled Adult.

(2) It is operated as independent housing, in which each tenant:

(A) Holds a lease or rental agreement in his or her own name and is responsible for paying Rent;

(B) Has his or her own room or apartment and is individually responsible for arranging any shared tenancy, to the extent that shared tenancy is allowed under his or her lease; and

(C) May stay as long as he or she pays his or her share of Rent and complies with the terms of his or her lease.

(3) The Unit is subject to applicable state and federal landlord-tenant laws.

(4) The tenant's participation in services or any particular service shall not be required as a condition of tenancy.

(5) At initial occupancy, the tenant household income, to the extent that it can be documented, shall not exceed 30 percent of the greater of State Median Income or Area Median Income.

(b) "Homeless" means:

(1) Moving from an emergency shelter; or

(2) Moving from Transitional Housing; or

(3) Currently Homeless which means:

(A) An individual who lacks a fixed, regular, and adequate nighttime residence; or

(B) An individual who has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and Transitional Housing for the mentally ill); or

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(c) "At Risk of Homelessness" means:

(1) Households with incomes at or below the greater of 20 percent of State Median Income (SMI) or Area Median Income (AMI) with no rental subsidy available to the household; or

(2) Households with incomes above 20 percent but not exceeding 30 percent of the greater of SMI or AMI who:

(A) Face immediate eviction and have been unable to identify a subsequent residence; or

(B) Face imminent release from an institution (i.e.; jail, hospital or foster care system) where other housing placement resources are not available; or

(C) Reside in an overcrowded setting (more than two persons per living/sleeping area) in which the household does not hold a lease; or

(D) Reside in substandard housing subject to a current official vacation notice; or

(E) Pay more than 50 percent of income in housing costs.

(d) "High Risk of Homelessness" means the same as "Homeless" or "At Risk of Homelessness."

(e) "Disabled Adult" for the purposes of this Article 6 only shall mean a person 18 years of age or older, or an emancipated minor, with one of the following disabilities:

(1) Mental illness;

(2) HIV or AIDS;

(3) Substance abuse;

(4) Developmental disability; or

(5) Long-term chronic health condition that qualifies them for:

(A) Eligibility under either of two Medicaid Waiver programs, the Multipurpose Senior Services Program (MSSP) or the Assisted Living Waiver Pilot Project (or its successor);

(B) Eligibility for 20 or more personal care hours per week under the In-Home Supportive Services Program (IHSS); or

(C) Eligibility for services under the Program of All Inclusive Care for the Elderly (PACE).

Eligibility for these programs must be established by the agency responsible for determining eligibility for the benefits it provides.

NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c) and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.14(b) and (c), 53260(d) and 53533(a)(3), Health and Safety Code.

HISTORY

1. New section filed 4-14-2005; operative 5-14-2005 (Register 2005, No. 15).

§ 7342. Eligible Project.

In order to be eligible to apply for funding pursuant to this Article 6, in addition to the requirements of Section 7302, a proposed Project shall:

(a) Contain Supportive Housing Units at least equal to the greater of 5 Units or 35 percent of the total number of Units in the Project;

(b) Restrict Supportive Housing Units for permanent housing for Eligible Households that are Homeless or At-Risk of Homelessness and that include a Disabled Adult;

(c) In the event that the Department utilizes an over-the-counter selection process, meet or exceed the minimum points required by subsection (a) of Section 7346;

(d) Be linked to onsite or offsite services that assist the tenant in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community;

(e) Utilize a primary service provider (the entity responsible for overall implementation of the service plan, including coordination between service providers, where there are more than one) with at least 24 months' experience in the provision of the proposed services to the targeted population, and a successful history of securing funds for similar activities;

(f) Utilize a property management agent with at least 24 months' experience in managing a special needs or supportive housing Project that would qualify as a Rental Housing Development pursuant to Section 8301(o), except that if the proposed Project has fewer than 10 Units, the Department may approve a property management agent with experience managing projects that do not qualify as Rental Housing Developments, provided that the agent has at least 24 months' experience managing housing for the specific population targeted by the proposed Project; and

(g) Not be operated as either a health facility, as defined by Section 1250 of the Health and Safety Code, or an alcoholism or drug abuse recovery or treatment facility, as defined by Section 11834.02 of the Health and Safety Code.

NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c) and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.2(d), 50675.4, 50675.7, 50675.14(b) and 53533(a)(3), Health and Safety Code.

HISTORY

1. New section filed 4-14-2005; operative 5-14-2005 (Register 2005, No. 15).

§ 7343. Eligible Sponsor.

In order to be eligible to apply for funding pursuant to this Article 6, in addition to the requirements of Section 7303, a Sponsor shall:

(a) Have at least 24 months experience in the ownership or operation of at least one Rental Housing Development with 5 or more Units that includes Units reserved for the disabled or other special needs group; and

(b) If the Department uses an over-the-counter application process, have sufficient experience to score at least 4 points under the development and ownership scoring criteria (pursuant to Section 7320(b)(3)), except that the score shall be based on experience acquired in the prior 10 years.

NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.7(c)(3), 50675.14(e) and 53533(a)(3), Health and Safety Code.

HISTORY

1. New section filed 4-14-2005; operative 5-14-2005 (Register 2005, No. 15).

§ 7344. Application Requirements.

In addition to the application requirements of Article 3, applications for funding under this Article shall include all the following information:

(a) Information sufficient to ascertain that the requirements of sections 7342 and 7343 have been met, and including at least one reference able to verify the role of the Sponsor in Projects submitted for experience;

(b) A supportive services plan that meets the requirements of Section 7345.

NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c) and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.6, 50675.7, 50675.14 and 53533(a)(3), Health and Safety Code.

HISTORY

1. New section filed 4-14-2005; operative 5-14-2005 (Register 2005, No. 15).

§ 7345. Supportive Services Plan.

A supportive services plan shall be subject to the Department's approval and shall contain the following information and address the following topics:

(a) A description of the target population to be served including a narrative describing the tenant selection criteria, tenant eligibility verification process, tenant selection process, and expected sources of referrals. The tenant selection criteria and process shall be in accordance with applicable state and federal fair housing laws. The narrative shall also describe any reasonable accommodation policies as they relate to targeting and tenant selection of persons with disabilities.

(b) A description of the service needs of each target population that will be served.

(c) A description of the services that will be provided, where the services will be provided, who the provider will be, the provider's experience, and the provider's relationship to applicant.

(d) Documentation confirming the number of supportive service staff available to the Project and a narrative explaining staffing ratio and experience. Staffing levels must be documented as sufficient to make services available to meet the needs of the target population.

(e) A services line-item budget itemizing all expenses and listing the sources, amounts, and status (i.e., proposed or committed) of supportive service funds. The budget must demonstrate that the level of proposed funding is adequate to the types and levels of services to be provided and that all necessary costs are included.

(f) A narrative description of tenant engagement plan (i.e., plan to elicit voluntary tenant participation in services).

(g) Commitments or letters of intent to provide operational funding for a minimum of 25 percent of the total service budget. This requirement may be waived where the service provider documents a history of securing supportive service funding sufficient for the Department to make a determination that the proposed Project service funding needs will be attainable. (All Sponsors must document commitment of 100 percent of the approved services budget prior to the disbursement of MHP funds.)

(h) An assessment from a public or nonprofit funding or regulatory agency with oversight or monitoring responsibilities for the proposed supportive services for the proposed target population that verifies that:

(1) The proposed services and staffing levels are adequate and appropriate to meet the needs of the target population(s); and

(2) The applicant or proposed service provider is a viable provider of the proposed support services.

(i) If the Sponsor is applying for a competitive advantage in the Leverage scoring category based on collaborative relationships and a focus on measurable outcomes and a plan for evaluation pursuant to Section 7346(c), the following information:

(1) Evidence of its collaboration with an organization other than the Sponsor or affiliates of the Sponsor to provide a portion of the services to Project tenants, or evidence of collaboration among specialized intra-organizational programs, groups, or departments. The evidence of collaboration must: be in writing (e.g., contract, memorandum of understanding, letter of intent, letter of interest, or letter of understanding); clearly identify the entity it is from (e.g., on letter head paper); include the Project address; specify the services to be included in the collabora-

tive effort; specify whether the services will be funded or provided, or both; include the estimated value of funds or in-kind services; include the term of the funding or service; and include a brief description and history of the entity providing the funding or services.

(2) A plan listing the projected outcomes and outcome measures that will be tracked and detailing how data will be collected, analyzed and evaluated.

NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.14(b) and 53533(a)(3), Health and Safety Code.

HISTORY

1. New section filed 4-14-2005; operative 5-14-2005 (Register 2005, No. 15).

§ 7346. Application Point Scoring.

Pursuant to Section 7317(c), the Department has the discretion to make funds under this Article 6 available on a competitive or over-the-counter basis.

(a) In the event that the Department utilizes an over-the-counter process, the following provisions shall apply, and in order to be considered for funding, an application shall:

(1) Score a minimum of 125 points utilizing the criteria set forth in Section 7320, except that Development and Ownership Experience (Section 7320(b)(3)) shall be scored based on experience acquired in the prior 10 years;

(2) Score a minimum of 4 points in the Development and Ownership Experience criterion (Section 7320(b)(3)) based on the Sponsor's experience acquired in the prior 10 years; and

(3) Score a minimum of 5 points in the Project Readiness criterion (Section 7320(b)(6)).

(b) Projects requesting both MHP Supportive Housing and MHP General funding shall be scored under the requirements specified in Section 7320(b)(7), Adaptive Reuse/Infill/Proximity to Amenities. Projects requesting only Supportive Housing funding, and not MHP General funding, shall receive the full 10 points available under this scoring criterion.

(c) Applications that demonstrate collaboration with programs that meet the needs of disabled tenants at High Risk of Homelessness and include a focus on measurable outcomes and a plan for evaluation will receive a competitive advantage in the Leverage Scoring Category (Section 7320(b)(5)) as follows:

(1) Applications will be deemed to meet the "collaboration" criterion if the application documents a commitment from an organization other than the applicant or affiliates of the applicant to provide a portion of the services to Project tenants. Cooperation among specialized intra-organizational programs, groups, or departments may also qualify as collaboration.

(2) Applications will be deemed to meet the focus on measurable outcomes criterion if the applicant establishes reasonable projected outcomes and outcome measures for residential stability, increased skills or income, and greater self-determination. Applications will be deemed to meet the requirement for a plan for evaluation if the applicant can reasonably describe the proposed system for tracking the data and agrees to collect and evaluate data on outcomes at least annually, with a baseline established at move-in. As specified in Subdivision (c)(3), further competitive advantage will be awarded to applications that track and evaluate pre- and post-occupancy service utilization data for tenants who were, or become during occupancy, incarcerated, hospitalized, housed in a residential treatment facility, or in homeless facilities, and include this in their evaluation.

(3) Applications will be scored based on the amount of non-MHP funds for permanent funding of the development costs attributable to the Restricted Units, as a percentage of the requested amount of MHP funds. The leverage advantage for qualifying Projects will be applied as follows:

(A) Projects containing at least the minimum 35%, but less than 75% of total Units as Supportive Housing Units will receive one half point for every full 5 percentage point increment of other funds as a percentage of MHP funds. These Projects will receive the first half point when the other funds are equal to 55% of MHP funds. The maximum point award (20 points) will be reached when the other funds are equal to 250% of MHP funds.

(B) Projects containing 75% or more of total Units as Supportive Housing Units will receive one full point for every full 5 percentage point increment of other funds as a percentage of MHP funds. These Projects will receive the first point when the other funds are equal to 55% of MHP funds. The maximum point award (20 points) will be reached when other funds are equal to 150% of MHP funds.

(C) An additional 2 points will be awarded to Projects that track and evaluate service utilization data, up to the maximum 20 points available under the leverage scoring criterion.

Applications that do not demonstrate both collaboration and a focus on measurable outcomes with a plan for evaluation shall be awarded leverage points solely pursuant to Section 7320(b)(5).

NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c) and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.4, 50675.5, 50675.6, 50675.7, 50675.13, 50675.14 and 53533(a)(3), Health and Safety Code.

HISTORY

1. New section filed 4-14-2005; operative 5-14-2005 (Register 2005, No. 15).

§ 7347. Reporting Requirements.

At the time the Sponsor submits the annual Project audit required by Section 7325, the Sponsor shall also submit a supplemental report including the following information:

(a) The length of occupancy by each supportive housing tenant.

(b) Changes in each supportive housing tenant's employment status during the previous year.

(c) Changes in each supportive housing tenant's source and amount of income during the previous year.

(d) Data on any measurable outcomes that the Sponsor agreed to collect pursuant to Section 7346(c)(2), along with an evaluation of the Project based on this data.

NOTE: Authority cited: Sections 50406(n), 50675.1(c), 50675.11, 50675.14(c) and 53533(a)(3), Health and Safety Code. Reference: Sections 50675.1, 50675.8 and 50675.14, Health and Safety Code.

HISTORY

1. New section filed 4-14-2005; operative 5-14-2005 (Register 2005, No. 15).

Subchapter 5. Deferred-Payment Rehabilitation Loans

§ 7400. General.

These regulations set forth the policies and procedures governing the management and use of the Deferred-Payment Rehabilitation Loan Fund established by Sections 50660-50670 of the California Health and Safety Code.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660-50668, Health and Safety Code.

HISTORY

1. New Subchapter 5 (Sections 7400-7436, not consecutive) filed 2-28-79 as an emergency; effective upon filing. Certificate of Compliance included (Register 79, No. 9).
2. Certificate of Compliance filed 6-12-79; transmitted to OAH 6-8-79 (Register 79, No. 24).
3. Repealer of Subchapter 5 (Sections 7400-7436, not consecutive) and new Subchapter 5 (Sections 7400-7436 not consecutive) filed 5-2-80; effective thirtieth day thereafter (Register 80, No. 18).

§ 7402. Definitions.

The following terms and definitions shall apply to this subchapter.

"Ability to afford" means that the total shelter expense does not exceed 30 percent of the gross income of the owner-occupant borrower pursuant to the provisions of this section. Components of shelter expenses may include, but are not limited to, rent, property taxes, owner-paid utilities, insurance, existing mortgage costs, existing home improvement loan payments, and any proposed rehabilitation costs.

"Affordable rent" means rents for low and very low income households as defined in Section 6922.

"Assisted units" means those units which directly benefit from funds from the Fund.

"Borrower" means a property owner receiving deferred-payment loans from a local entity pursuant to provisions of this subchapter.

"Commitment" means a specific fund award from the Housing Rehabilitation Loan Fund.

"Concentrated rehabilitation area" means an area characterized by substantial deterioration of residential structures which is designated as such by the California Housing Finance Agency pursuant to Section 51302 of the Health and Safety Code.

"Department" means the California Department of Housing and Community Development.

"Deferred payment loans" means loans made by a local entity to borrowers with funds from the Housing Rehabilitation Loan Fund.

"Director" means the Director of the California Department of Housing and Community Development.

"Elderly" means a family in which the head of the household is 60 years of age or older or a single person who is 60 years of age or older.

"Enforcement agency" means a local entity eligible pursuant to the provisions of this subchapter that is enforcing applicable codes on residential properties and is eligible for loans from the Housing Rehabilitation Loan Fund without interest.

"Fair Market Rent" means rent limits as established by HUD for the Section 8 Existing or Moderate Rehabilitation Housing Assistance Payments Program.

"Fair Rate of Return" means an annual before-tax rate of return not to exceed 8% of cash investment in rental property to for-profit owners.

"Fund" means the Housing Rehabilitation Loan Fund.

"Household" means one or more persons who are (1) low or moderate income household owner-occupants or (2) low income renters.

"Housing development" means a rental or cooperatively-owned residential property, including a residential hotel, eligible to receive loan funds pursuant to the provisions of this subchapter for the primary purpose of providing affordable, decent, safe, and sanitary housing. A housing development may include any buildings, land, equipment, facilities or other real or personal property including, but not limited to, streets, sewers, utilities, and other non-housing facilities such as administrative, health, recreational, educational and child-care facilities which are an integral part of a housing development.

"Loan Agreement" is the lender's agreement between the ultimate borrower and the local entity.

"Loan Committee" means the Rehabilitation and Construction Finance Loan and Grant Committee established pursuant to Section 6902(d).

"Local entity" means a local public entity or a non-profit corporation as defined in these regulations.

"Local public entity" includes all entities set forth in Section 50079 of the Health and Safety Code.

"Low-income" means the income limit established by Section 6928.

"Moderate-income" means the income limit established by Section 6930.

"Monthly debt service" means the amount of money a borrower must pay each month on a loan for principal and interest.

"Mortgage assistance area" means that area defined in Section 50085 of the Health and Safety Code.

"Net income" means the income of a person or family as defined in Section 6916.

"Nonprofit corporation" means a corporation incorporated pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title I of the Corporations Code governing public benefit corporations or a corporation subject to said Part pursuant to the terms of Section 9912 of the Corporations Code.

"Owner" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, or other legal entity or any combination thereof, whether for profit, nonprofit, or organized for limited profit, owning residential property in fee simple pursuant to the provisions of this subchapter.

"Owner-occupant" means an owner of one to four unit residential property who use one of the units as a principal residence.

"Program" means the Deferred Payment Rehabilitation Loan Program.

"Rehabilitation" means repairs and improvements to a substandard structure necessary to make it meet rehabilitation standards and may include common non-commercial areas used by residents of the property.

"Rehabilitation program" means an ongoing program involving construction assistance, financial assistance or technical assistance in the rehabilitation of residential property.

"Rehabilitation standards" means applicable state or local building or housing standards adopted by a city or county pursuant to the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code and specifically Section 17958.8. Rehabilitation standards include room additions necessary to alleviate overcrowding for eligible households.

"Rental unit" means a dwelling in a single-family or multi-family structure of two or more units, including a guest room in a residential hotel, which is rented or leased to a person or household. For purposes of this subchapter, a unit in a stock cooperative or limited-equity housing cooperative is a rental unit.

"Residential hotel" means any building containing six or more guest rooms intended or designed to be used for, or which are occupied for, sleeping purposes by tenants, which is also the primary residence of these tenants, provided that a majority of these rooms are residential hotel units.

"Residential hotel unit" means a room in a residential hotel used or intended or designed to be used as a primary residence, which is subject to the provisions of Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code, but which lacks either or both a self-contained kitchen or bathroom.

"Room addition" means rooms which are added to a structure to alleviate documented overcrowding. "Room addition" shall not include an increase in the number of rooms within the existing living space of an existing structure.

"Rural area" means an area as defined by Section 50101 of the Health and Safety Code.

"Substandard building" means any residential building or any portion of a residential building, including, but not limited to, any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located, in which there exist any of the conditions listed in Section 17920.3 of the Health and Safety Code, to the extent that the conditions endanger the life, limb, health, property, safety, or welfare of the public or occupants thereof; violation of any rehabilitation standards adopted by the local public entity or nonprofit corporation as part of its residential rehabilitation program may contribute to the substandard nature of a structure if they are life- or health-endangering.

"Transfer of property" means to sell, convey, transfer, or alienate title, voluntarily or otherwise, to the property, except in the case of the transfer of the property to an owner occupant's spouse as a consequence of death or dissolution.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference cited: Sections 50660-50668, Health and Safety Code.

HISTORY

1. Amendment of subsection (r) filed 6-19-80; effective thirtieth day thereafter (Register 80, No. 25).
2. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
3. Amendment filed 11-2-82; effective thirtieth day thereafter (Register 82, No. 45).
4. Amendment filed 6-3-85; effective thirtieth day thereafter (Register 85, No. 23).
5. Amendment filed 3-17-86; effective thirtieth day thereafter (Register 87, No. 12).

§ 7404. Eligibility Criteria.

(a) The local entity shall have available, and commit to the extent feasible, CHFA funds, CDBG grants and BMIR loans, HUD 312 loans, Marks–Foran rehabilitation and refinancing funds, FmHA loans or other funds to be used in combination with commitments from the Fund in designated areas. Local entities that are operating or will operate one or more of the following rehabilitation programs in conjunction with this program are eligible to apply for Fund commitments from the Department pursuant to the provisions of this subchapter.

(1) A rehabilitation loan program conducted in a CHFA Concentrated Rehabilitation Area designated pursuant to Section 51302 of the Health and Safety Code.

(2) A residential rehabilitation financing program conducted pursuant to the Marks–Foran Program commencing with Section 37910 of the Health and Safety Code.

(3) A city–wide or county–wide systematic enforcement program pursuant to which the CHFA has allocated sufficient funds for improvement loans for rehabilitation of housing pursuant to Section 51311 of the Health and Safety Code.

(4) A code enforcement agency repairing substandard structures following the owner's failure to commence work following a final notice or order from the enforcement agency.

(5) A program conducted by the CHFA in a mortgage assistance area as defined in Section 50085, Health and Safety Code, provided such area is located in a rural area.

(6) A rehabilitation or code enforcement program being undertaken by a local entity in an area in which federal funds are being used or will be used in conjunction with the Deferred Payment Rehabilitation Loan Program.

(b) Local entities applying for fund commitments to lend to local borrowers must demonstrate upon application:

(1) capacity to undertake or operate a rehabilitation loan program; and

(2) capacity to manage, monitor, and enforce the terms and conditions of this subchapter.

(c) When a local entity proposes, in an application for commitments from the Fund, to make rehabilitation loans within the jurisdiction of a city or county which has made or is considering its own application for funds from the Fund, the local entity must receive prior written authorization for such application from the governing body of the city or county. Such written authorization shall be included with the application made by the local entity.

(d) Applications by nonprofit corporations for new commitments or loans from new commitments from the Fund shall include approval for such applications from the governing body of each city or county having jurisdiction over the area or areas in which loans are to be made. Said approval shall specifically authorize the nonprofit corporation to make rehabilitation loans in the designated area or areas.

(e) The Department may provide deferred payment loans directly to the owner–occupant of a dwelling unit or owner of a rental housing development pursuant to Section 50668(b) of the California Health and Safety Code.

(f) An owner–occupant household of low or moderate income which satisfies the following criteria is eligible for a deferred payment loan pursuant to the provisions of this subchapter:

(1) It is the owner–occupant of the unit to be assisted.

(2) The property is eligible under a rehabilitation program designated under subsection(a) of this section. For projects which directly benefit from funds of programs designated under (a)(1)–(a)(5) borrowers may be low or moderate income households. For projects which directly benefit from funds of programs designated under (a)(6), owner–occupant borrowers shall be low income households only, except that where program areas designated under (a)(6) overlap with other eligible program areas, the least restrictive income limits for borrowers shall apply.

(3) The monthly payments required by any combination of loans available through CHFA, Marks–Foran, CDBG, HUD 312, FmHA and rehabilitation/refinancing by private lending institutions or other sources to cover the cost of meeting rehabilitation standards would result in the total shelter expense exceeding the owner's ability to afford such shelter expenses.

(g) An owner of rental units which satisfies the following criteria is eligible for a deferred payment loan pursuant to the provisions of this subchapter:

(1) It owns a single–family or multi–family rental residential property in which the units are, or will be, occupied by low–income households pursuant to Section 7416(b).

(2) The property is in a rehabilitation program designated under subsection (a).

(3) The owner agrees to rent to low–income households pursuant to Section 7416.

(4) The owner agrees to limit rent increases pursuant to Section 7412(c).

(5) The loan is necessary to avoid increases in monthly debt service, necessitated by any combination of loans available through CHFA, Marks–Foran, CDBG, HUD 312, FmHA, refinancing/rehabilitation by private lending institutions, or local agency lending programs, which are necessary to cover the cost of meeting rehabilitation standards, as determined by increased rents, which either would exceed the affordable rents for low–income households residing in the rental property at the commencement of rehabilitation work funded by the local agency or by others; or which would make it economically infeasible to use available subsidies, such as Section 8, in order to provide affordable rents to low–income households.

(h) The Loan Committee may modify income requirements and definitions to allow a local entity to use standards more compatible with those

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used in local programs if the purpose of this program is furthered by such modification.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50668, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment filed 11–2–82; effective thirtieth day thereafter (Register 82, No. 45).
3. Amendment filed 6–3–85; effective thirtieth day thereafter (Register 85, No. 23).
4. Amendment of subsections (e) and (f)(2) filed 3–17–86; effective thirtieth day thereafter (Register 87, No. 12).

§ 7406. Loan Limits.

The following limitations shall apply to all Fund commitments or deferred payment loans made by local entities:

(a) The Loan Committee shall authorize no more than 10 percent of the appropriation to the Fund for rehabilitation activities of code enforcement agencies pursuant to Section 7404(a)(4). Not less than 20 percent of the appropriations to the Fund on or after January 1, 1980 shall be expended in rural areas.

(b) Loans for direct rehabilitation and repairs by code enforcement agencies.

(1) The maximum amount of funds loaned to a local entity shall be $10,000 per unit.

(2) Funds received pursuant to this subsection shall be applied to the total permitted by subsection (a) of this section.

(3) The maximum loan from the Fund plus other indebtedness against the property shall not exceed 90 percent of the anticipated after–rehabilitation value of the property.

(c) Loans to low and moderate income owner–occupants of a unit to be assisted.

(1) The maximum deferred payment loan per unit shall be $10,000 or $20,000 when there are room additions, subject to the limitation of subdivisions (2) and (3), and may be subordinate to prior loans and liens.

(2) The maximum deferred payment loan plus other indebtedness against the property shall not exceed 90 percent of the anticipated after–rehabilitation value of the property. The existence of senior citizen tax deferral liens shall not be included in the calculation of indebtedness.

(3) Loans shall be limited to the amount necessary to cover the cost of meeting rehabilitation standards which cannot be financed by any combination of funds otherwise available without exceeding the borrower's ability to afford shelter expenses. Such funds may be derived from sources such as Marks–Foran, CHFA, CDBG, HUD 312, FmHA, or funds from private lenders. A loan to an elderly owner–occupant of low income may be permitted without requiring the other financing specified in subsection 7404(f)(3). With Department permission, this requirement may also be waived where its enforcement would require loans from other sources in such small amounts that the local entity determines that the administration and processing of such other loans is impractical or unreasonable.

(4) The borrower shall receive only one deferred payment loan.

(5) Exceptions to subparagraphs (c)(1), (c)(2), and (c)(4) may be recommended by a vote of the Loan Committee if it finds the presence of extraordinary circumstances, such as where the existing loan limit is not sufficient to cover costs attributed to retrofitting a unit for the handicapped, or where there are urgent health and safety needs, such as a polluted water supply or severe foundation problems. In either case, the local entity must document that no other funds are available for this purpose.

(d) Loans to owners of rental units.

(1) The maximum deferred payment loan to an owner of rental units shall be $10,000 per unit, or $20,000 when there are room additions, $5,000 per residential hotel room, and $200,000 per housing development, subject to the limitations of subdivisions (2) and (3). Maximum loan amounts shall be based on the number of units after rehabilitation. The deferred payment loan may be subordinate to prior loans and liens.

(2) The maximum deferred payment loan plus other indebtedness against the property shall not exceed 90 percent of the anticipated after–rehabilitation value of the property.

(3) Loans qualifying under Section 7404(g)(5) shall be limited to the amount of the cost of meeting rehabilitation standards which exceed the amount which can be financed by any combination of funds otherwise available without exceeding monthly debt service, as determined by increased rents, which either would exceed the affordable rents for one or more low–income households residing in the rental property or having been displaced from the rental property at the commencement of rehabilitation work funded by the local entity or by CHFA; or make it economically infeasible to accept subsidies, such as Section 8, available to provide affordable rents to low–income households. With Department permission, this requirement may be waived where its enforcement would require loans from other sources in such small amounts that the local entity determines that the administration and processing of such other loans is impractical or unreasonable.

(4) The borrower shall receive only one deferred payment loan for each housing development assisted.

(5) Exceptions to subparagraphs (d)(1), (d)(2), and (d)(4) may be recommended by a vote of the Loan Committee if it finds the presence of extraordinary circumstances, such as where the existing loan limit is not sufficient to cover costs attributed to retrofitting a unit for the handicapped, or where there are urgent health and safety needs, such as a polluted water supply or severe foundation problems. In either case, the local entity must document that no other funds are available for this purpose.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50668, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsection (d) filed 11–2–82; effective thirtieth day thereafter (Register 82, No. 45).
3. Editorial correction of subsection (d)(3) filed 1–6–83 (Register 83, No. 2).
4. Amendment filed 6–3–85; effective thirtieth day thereafter (Register 85, No. 23).

§ 7408. Rates and Terms.

The following rates and terms apply to all commitments and loans from the Fund.

(a) Commitments of funds to local entities for borrowers.

(1) All funds committed from the Fund to local entities shall be loaned to borrowers within a period to be determined by the Department.

(2) The Loan Committee may provide for a waiver of interest payments when, and to the extent that, a local entity remits to the Department, in advance on behalf of the borrower, a sum equal to not less than 15 percent of the original principal balance of the loan to the borrower. This sum shall be in lieu of interest. Local entities may choose to make such advance payments when they make loans to borrowers at less than 3 percent.

(3) Funds, including loan principal and interest, including any interest attributable to delinquency paid thereon by borrowers, shall be repaid by local entities to the Department promptly as borrowers repay loans to local entities.

(b) Loans to local entities for direct rehabilitation and repair by code enforcement agencies.

(1) Loans made pursuant to this subsection shall not bear interest, except as provided under (b)(2).

(2) Any rehabilitation expenditures pursuant to this subsection shall be made a special assessment or lien against the properties affected and shall require that the full amount collected by the local entities, up to the cost of rehabilitation, and any interest collected on that sum, be promptly repaid to the Fund.

(3) Loan funds shall be expended within a period to be determined by the Department.

(c) Loans to low or moderate–income owner–occupants of units to be assisted.

(1) Loans from local entities to borrowers shall bear simple interest at the rate of 3 percent per annum on the original balance which shall be payable to the local entities when the loan is due.

(2) Payment of interest by the borrower may be waived or adjusted to less than 3 percent only when a local entity complies with the requirements of subsection (a)(3).

(3) Loans to elderly borrowers shall be due and repayable to the local entity upon sale, conveyance or transfer of the property or any interest therein, although the borrower may repay the entire amount of the loan earlier at his or her discretion. Loans shall also be due and repayable if the elderly borrower no longer occupies the unit as his or her principal residence for reasons other than medical treatment or disability, requiring a temporary alternative residence for the elderly borrower.

(4) Loans to non–elderly owner–occupants shall be due and repayable to the local entity if the borrower no longer occupies the unit as his or her principal residence or upon sale, conveyance or transfer of the property or any interest therein to any person other than a person of low or moderate income who is eligible pursuant to Section 7404(f). Loans shall have five–year terms, which may be renewed as long as the property is not transferred, the borrower continues to occupy the property and the borrower's income and assets are such that the deferred payment loan could not be feasibly repaid by refinancing from other sources. A local entity shall only renew loans for one five–year period at a time. A borrower may repay the entire amount of the loan earlier at his or her discretion. If the borrower becomes elderly during the term of the loan, the loan shall be repaid pursuant to subsection (3).

(5) Local entities may not approve or agree to any refinancing, assumption or subordination with respect to a Program loan or real property securing the loan without the prior approval of the Department.

(d) Loans to owners of rental units.

(1) Loans from local entities to borrowers shall bear simple interest at the rate of 3 percent per annum on unpaid principal balance which shall be payable to the local entity when the loan is due.

(2) Loans shall have five–year terms unless the local entity and the Department determine that a longer term is required to ensure the economic feasibility of obtaining other rehabilitation financing or accepting subsidies. The initial five–year term may be renewed up to five additional five–year periods for a total term of up to thirty years, as long as the local entity determines that low income households residing in the rental units will benefit, pursuant to the loan agreement. Local entities shall renew loans only for one five–year period at a time unless multiple five–year periods are essential to the feasibility of continuing to benefit low–income households.

(3) Local entities may not approve, or agree to any refinancing, assumption or subordination with respect to a Program loan or real property securing the loan without the prior approval of the Department.

(e) Incremental repayments to either the Department or local entities shall not be permitted.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50668, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsection (d)(2) and repealer of subsection (f) filed 11–2–82; effective thirtieth day thereafter (Register 82, No. 45).
3. Editorial correction of subsection (c)(4) filed 1–6–83 (Register 83, No. 2).
4. Amendment filed 6–3–85; effective thirtieth day thereafter (Register 85, No. 23).

§ 7410. Conditions of Fund Commitments to Local Entities.

The following special conditions shall apply to all fund commitments made to local entities.

(a) Before the Department disburses funds, the local entity will be required to submit to the Department the following documents which will have been prepared by the Department or at its direction:

(1) A resolution authorizing the acceptance of funds pursuant to the terms of these regulations;

(2) An executed Standard Agreement between the local entity and the Department;

(3) Borrower documents and completed application forms to be used between the local entity and borrowers, including copies of the loan agreement, promissory note, and security instrument(s); and

(4) Any other documents deemed necessary by the Department.

(b) Local entities shall agree not to discriminate or permit discrimination on account of race, color, religion, ancestry, sex, age, national origin, marital status, and mental or physical handicap, in accordance with all local, state, and federal laws governing and restricting such discrimination or requiring affirmative action. In addition, local entities shall agree not to discriminate, due in whole or in part to the consideration of conditions, characteristics or trends in the neighborhood or geographic area surrounding the housing development, unless it can demonstrate that such consideration in the particular case is required to avoid an unsafe and unsound business practice.

(c) Local entities shall agree not to substitute commitments from the Fund for similar local funds. This requirement applies to the local entities overall rehabilitation activities in the jurisdiction, rather than on a loan–by–loan basis.

(d) The Standard Agreement with local entities shall specify, in addition to the other items in this section, conditions including, but not limited to:

(1) Terms and conditions of borrower loans, including rate of interest, term, amount and purpose of such loans;

(2) Terms and conditions related to extensions and assumptions of borrower loans;

(3) Terms and conditions related to the making and monitoring of loans to borrowers or transactions with owners of buildings subject to code enforcement repairs and rehabilitation;

(4) Terms and conditions related to administration of the local program, including coordination and use of other sources of rehabilitation and refinancing funds in combination with deferred payment loans;

(5) Terms and conditions related to the ability of the Department or its agents to enter and inspect properties affected or to be affected by funds from the Fund, and records of the local entity and/or borrower related to funds from the Fund;

(6) Terms and conditions related to borrower default, late repayment and collection of the loans by the local entity;

(7) Terms and conditions related to remedies for breach of the Standard Agreement and extension of the period for fund commitments;

(8) Terms and conditions related to truth–in–lending disclosure;

(9) Terms and conditions related to requiring evidence of adequate casualty loss insurance; and

(10) Terms and conditions related to the assignment to the Department of all rights of the local entities arising from loans to borrowers.

(e) Local entities shall provide the Department with reports on the progress of rehabilitation and related purposes for which the funds have been used. Reports shall be submitted on a semi–annual basis or at other intervals required by the Department. The Department shall determine the required contents of the reports.

(f) Pertinent information on each loan to borrowers shall be provided promptly to the Department in the form required by the Department. All loan documents and agreements related to loans to borrowers shall be kept on file by the local entity as directed by the Department.

(g) Primary responsibility for monitoring and enforcing conditions of the loans shall be taken by local entities, and such enforcement shall be taken promptly by the local entity to protect the security of the loan or the benefits to low–income tenants. Local entities shall provide that inspections of the premises to be rehabilitated by loan proceeds are performed and that such work meets applicable code standards.

(h) Notwithstanding any other provisions of these regulations, and any amendments thereto, or any terms of any documents, agreements or notes

executed by and between the Department and the local public entity, the obligation of the local public entity to repay principal and interest on a commitment made under these regulations shall be limited to that amount actually recovered from each loan made by the local public entity.

(i) Nonprofit corporations obtaining commitments from the Fund shall present evidence of adequate fidelity bonds.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50668, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsection (b) filed 11–2–82; effective thirtieth day thereafter (Register 82, No. 45).
3. Amendment filed 6–3–85; effective thirtieth day thereafter (Register 85, No. 23).

§ 7412. Conditions of Loans to Borrowers.

The following general conditions shall apply to all loans made by local entities to borrowers.

(a) The following documents shall be executed by all borrowers and local entities as applicable:

(1) A loan agreement, which, in the case of loans to rehabilitate rental units, shall be recorded or referenced in a recorded document;

(2) A promissory note;

(3) A security instrument to be recorded;

(4) Truth–in–lending disclosure; and

(5) Other documents required by the Department or required by the local entity and approved by the Department.

(b) The loan agreement shall be in a form determined by the Department and contain, but not be limited to, the following provisions:

(1) Amount, term, and interest on the loan, including specific terms of payment and repayment of principal and interest;

(2) Terms and conditions regarding non–discrimination and affirmative action in hiring, as required by law;

(3) Terms and conditions regarding contractor selection, self–help, rehabilitation work to be done, bonding, and payments to contractors;

(4) Compliance with local, state or federal laws, ordinances and regulations applicable to proposed loans, rehabilitation, and use of the premises, including zoning ordinances, building codes, planning, historic preservation, environmental, and relocation regulations;

(5) Terms and conditions relating to defaults in repayment or compliance with the loan agreement;

(6) Provisions allowing the local entity or Department, their agents or employees, with the prior consent of the borrower and the occupant in each instance, to enter upon and inspect the lands, buildings, and equipment of the borrower at any time during or after rehabilitation of the subject property; or to inspect the books and records of the owner related to the subject loan funds, at any time during or after rehabilitation of the property assisted by the loan;

(7) Terms and conditions related to program reporting requirements;

(8) Terms and conditions related to extensions, refinancing, assumptions, or subordination of the loan; and

(9) Provisions that enforcement shall be by proceeding at law or in equity, at the option of the local entity or department, against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

(c) The loan agreement with borrowers to rehabilitate rental units shall include, in addition to the provisions contained in subdivision (b), provisions covering the following special conditions:

(1) Pursuant to Section 7416(a)–(d), rental units in the residential property shall be rented to low income households;

(2) Loans pursuant to Section 7404(a)(1) shall be made only if the borrower agrees to restrict rents as required by regulation of the California Housing Finance Agency pursuant to subdivision (g) of Section 51307;

(3) Loans pursuant to Section 7404(a)(2) shall be made if the borrower contracts during the term of the loan to limit rent increases as provided in Section 37922.5 of the Health and Safety Code;

(4) Loans pursuant to Section 7404(a)(3) shall be made if the borrower accepts a loan for rehabilitation from the California Housing Finance Agency and agrees to limit rents and profits as required by such a loan;

(5) Loans pursuant to Section 7404(a)(5) and (6) shall be made if the borrower agrees to execute an agreement, to be provided by the Department, whereby the borrower agrees during the term of the loan not to raise residential rents for all assisted units in a rental housing development by an annual amount greater than 50% of the annual average percentage increase in the Consumer Price Index for All Urban Consumers, Western Region, All Items ("CPI") as published by the U.S. Bureau of Labor Statistics. In the event such index is no longer published or available, an alternative index shall be selected by the Department. The alternative shall be based on the same factors which determine the CPI to the extent possible. However, if the units are located in a community which has adopted rent stabilization ordinances which would require a lower increase in rents, the local provisions shall apply.

(6) Where program areas under Section 7404(a)(5) and (6) overlap with other eligible program areas, the provisions which require the lowest increase in rents shall apply.

(7) Loans to rehabilitate one or more units for which Section 8 Housing Assistance Payments will be used, shall be made only if the borrower agrees during the term of the loan not to raise rents by an amount greater than the annual rent adjustments for Section 8 units as determined and published by the U.S. Department of Housing and Urban Development;

(8) Terms and conditions related to tenancy standards and procedures pursuant to Section 7416.

(9) The loan agreement shall be binding on the borrower and successors in interest for the full term of the loan, regardless of sale, transfer or prepayment.

(d) Loans by local entities shall be secured in a manner that adequately protects the interests of the Department. Security may include, but is not limited to, deeds of trust or mortgages.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50668, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment filed 6–3–85; effective thirtieth day thereafter (Register 85, No. 23).

§ 7414. Authorized Expenses.

Funds from the Fund may be used only with respect to the following authorized expenses.

(a) Loans to local entities for direct code enforcement repair or rehabilitation pursuant to Section 7404(a)(4) may be used only for actual rehabilitation and repair costs. They may not be used for governmental administrative costs, overhead costs, costs of collection or foreclosures, or other items.

(b) Loans from the Fund made by local entities to borrowers may include the following costs:

(1) Costs of rehabilitating, or the reconstruction of, eligible properties in conformance with rehabilitation standards, except as excluded under subsection (c);

(2) Room additions or enlargements pursuant to Section 7402;

(3) Costs for improvements related to making the housing development accessible to and usable by the handicapped;

(4) In unusual cases, and if approved by the Department after consideration of need and cost by the local entity, the cost of design services for the preparation of plans, drawings, and specifications for the rehabilitation of the property;

(5) The cost of building permits and related fees required for the rehabilitation, if not included in the construction contract;

(6) Costs of title reports, credit reports, appraisal reports and fees for recording documents related to the loan; and

(7) The cost of repair and installation of alternative energy conservation systems and weatherization when done in conjunction with other rehabilitation work.

(c) Loans made by local entities pursuant to this subchapter may not include the following unauthorized expenses:

(1) Real property acquisition;

(2) New construction, except for room additions as authorized by this subchapter;

(3) Refinancing;

(4) General property improvements unless such improvements are necessary to correct unsafe, unhealthy or insanitary conditions, including renovations and remodeling, such as remodeling of kitchens and bathrooms, installation of new appliances; landscaping; or the purchase and/or installation of central air conditioning;

(5) Materials, fixtures or equipment of a type of quality which exceeds that customarily used in the locality for properties of the same general type as the property to be rehabilitated;

(6) Appliances not required by rehabilitation standards;

(7) The purchase, installation, or repair of furnishings or trade fixtures;

(8) Local entity administration, consulting, loan packaging, and overhead costs; and

(9) Expenses related to displacement and relocation of tenants in rental units rehabilitated under the program.

(d) Expenses related to rehabilitation activities which result in a decrease in the number of rooms or units in a residence or housing development may be authorized where the following criteria are met:

(1) no permanent displacement will result; and

(2) it is necessary to meet applicable building or housing codes; or

(3) the new unit composition meets a greater housing need than does the existing unit composition; or

(4) the new unit composition is necessary to ensure the economic feasibility of the project.

(e) Expenses related to rehabilitation activities which result in an increase in the number of residential units or conversion of non-residential structures to residential use may be authorized where the following criteria are met:

(1) the additional units will be made available to low income households pursuant to Section 7416 for the purpose of alleviating a shortage of standard rental housing affordable to such households in the community; and

(2) the additional units or conversions are necessary to make rehabilitation and continued maintenance economically feasible.

In cases where nonresidential structures are converted to residential use, the borrower must agree to execute documents to ensure that units created will be reserved for occupancy by low-income households pursuant to Section 7416 for a period of at least fifteen years by agreeing to extend the loan after each five-year term as provided for in Section 7408(d).

(f) In buildings where there are mixed residential and commercial uses, authorized expenses shall include only those expenses attributable to portions of the structure which directly benefit residential uses. Where common elements, such as roofs, are to be rehabilitated, program funds may be used for the residential portion of the total costs, based on the percentage of residential floor area in the structure.

(g) Administrative costs of the Department shall be derived from the Fund.

(h) Related administrative costs of local entities may be derived from the Fund if it is determined by the Department that such payments are necessary for local entities to implement and assure compliance with this program.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50668, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsections (b)(1), (d) and (e) filed 11–2–82; effective thirtieth day thereafter (Register 82, No. 45).
3. Amendment filed 6–3–85; effective thirtieth day thereafter (Register 85, No. 23).

§ 7415. Grants for Administrative Costs.

The following conditions shall apply to awards for related administrative costs.

(a) Local entities that are eligible to receive funds for administrative costs of operating the program are limited to:

(1) Local public entities that are not jurisdictions designated as entitlement grantees under HUD's Community Development Block Grant program, and that will operate the program and make loans in rural areas.

(2) Nonprofit corporations that will operate the program and make loans in rural areas.

(b) The Department may provide grant funds to eligible local entities for costs of administering the program in an amount up to 15 percent of the total loan commitment from the Fund.

(c) Eligible costs may include, but are not limited to, personal services, operating expenses, and rental of equipment. Proposed items of administration and other costs shall be set forth in the application. Only those costs specifically approved by the Department may be reimbursed from the Fund. Administrative costs will be accounted for on a direct cost basis unless an indirect cost rate has been approved by the Department.

(1) Personal services include:

(A) Staff salaries, wages and benefits; and

(B) Contract services in administration of the program.

(2) Operating expenses and equipment include:

(A) Office supplies, printing and copying and telephone charges;

(B) Travel;

(C) Office rent and utilities related to the program operation;

(D) Rented office equipment; and

(E) Insurance and fidelity bonds.

(d) Ineligible costs include costs to be included in loans to borrowers as set forth in Section 7414(b).

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsections (c) and (e) filed 11–2–82; effective thirtieth day thereafter (Register 82, No. 45).
3. Amendment of subsection (d) filed 6–3–85; effective thirtieth day thereafter (Register 85, No. 23).

§ 7416. Tenancy Standards and Procedures.

The following terms and conditions govern tenant selection, relations, and evictions for low-income tenants of rental units rehabilitated with loans from the Fund.

(a) Initial priority for rental units shall be given to those households which resided on the premises prior to rehabilitation and were displaced due to, or during the process of, rehabilitation.

(b) Borrowers shall agree to rent 100 percent of the residential units in a housing development rehabilitated with loans from the Fund, other than owner-occupied residences or units, to low income households during the term of the loan, except where it is necessary to preserve the economic feasibility of the development or avoid displacement. In such cases, the Department may approve a lower percentage, however, in no case shall less than 50 percent of the units be designated for low income households. If the designated number of low income units are initially occupied by non-low income households but subsequently become vacant, the borrower shall agree to rent such units to low income households. The borrower shall affirmatively seek such households by contacting the local housing authority. Where the borrower cannot obtain such low income tenants by contacting the local housing authority, the borrower shall contact the local entity for guidance. The local entity shall contact the Department if its efforts do not result in low income tenants for the vacant units.

(c) If rental subsidies are available, borrowers may accept rent subsidies for assisted units.

(d) Rents shall remain at pre-loan application levels until rehabilitation is completed. After rehabilitation, increases in rents shall be limited to avoid displacement of low and moderate income households pursuant

to Government Code Section 7265.3(b). Proposed after-rehabilitation rents shall be established by the local entity and borrower prior to approval of the loan agreement by the Department. Rents shall be set at levels in accordance with the provisions set forth in Section 7412(c) and consistent with the economic feasibility of the housing development and a fair rate of return to the owner of the housing development as determined by the Department.

(e) The borrower shall agree to use a lease prepared by the Department which conforms to California law and the requirements of Sections 11402 and 11405–11406 or other lease subject to the approval of the Department.

(f) The borrower and tenants shall comply promptly and fairly with their responsibilities under law and as set forth in the lease. In addition, the borrower shall make every effort feasible to ensure the stability and security of tenants.

(g) If a tenant's income exceeds the standard pursuant to which he or she was accepted for tenancy, that fact alone shall neither cause the tenant's eviction nor be a violation of the borrower's loan agreement or these regulations.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference cited: Sections 50660–50668, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).

2. Amendment of subsection (b) filed 11–2–82; effective thirtieth day thereafter (Register 82, No. 45).

§ 7418. Loan Committee.

The loan committee shall operate as required by Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of this Part.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50670, Health and Safety Code.

HISTORY

1. Amendment filed 6–19–80; effective thirtieth day thereafter (Register 80, No. 25).

§ 7420. Review of Applications for Fund Commitments.

The following criteria shall be used to review applications in determining Fund commitments to local entities.

(a) Compliance with State Housing Element requirements contained in Section 65302(c) of the Government Code;

(b) The local entity's ability to lend the funds upon receipt of a commitment;

(c) Evidence of need in terms of substandard housing; and

(d) Other considerations as deemed appropriately by the Department.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50668, Health and Safety Code.

HISTORY

1. Repealer and new section filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).

§ 7422. Application Process.

The Department shall prepare and provide application forms and program documents upon request. The process shall include, but not be limited to the following activities.

(a) Applications for fund commitments to local entities will be reviewed by Department staff.

(b) Information and staff recommendations regarding completed applications from eligible local entities will be submitted for consideration by the Loan Committee.

(c) The Loan Committee shall make recommendations to the Director regarding the applications pursuant to Section 6904.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50668, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).

§ 7424. Department Review of Local Activities.

(a) The Department shall review and approve or disapprove all loan applications for funds from the Fund involving assistance to rental units, as well as all assumptions and extensions of such loans.

(b) At the discretion of the Department, loan applications from owner-occupants or extensions of such loans may be reviewed in their entirety and are subject to approval by the Department.

(c) Any time during the operation of the program, the Department may request or perform a review or financial audit of any and all phases of the local entity's program operation. The local entity shall provide any requested documentation related to monitoring and enforcing the Standard Agreement.

(d) Any person or owner affected by this program may petition the Department to review any phase of implementation of the local entity's program. Grievances may relate to, but not be limited to, eligibility, terms of tenancy, or authorized expenditures. Review undertaken by the Department under this section may be informal or may follow the procedures outlined in Government Code Section 1180 et seq. at the option of the Department. Failure to petition the Department shall not limit a complainant's right to seek judicial review; nor shall the Department's review pursuant to a petition preclude de novo judicial review.

(e) Reports describing the progress and problems of the local entity's program, including loan disbursals and grant expenditures, if any, shall be submitted to the Department until such time as the local entity has loaned all of its commitment from the Fund. Reports shall be submitted at intervals determined by the Department. The Department may provide local entities with the format for such reports.

(f) As a result of any Department findings of noncompliance resulting from reviews pursuant to subsections (a)–(e), the Department may require that the local entity remedy the situation in order to remain in the program.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).

2. Amendment filed 6–3–85; effective thirtieth day thereafter (Register 85, No. 23).

§ 7426. Appeals Procedure.

The following appeals procedures shall apply to operation of the program.

(a) Local entities whose applications for fund commitments are not recommended for approval by the Loan Committee may appeal the Committee's decision in accordance with the procedures set forth in Section 6906.

(b) Borrowers whose loan applications have not been approved by the local entity may appeal to the local entity.

(c) A local entity may appeal any action by Department staff on applications for loans to borrowers to the Loan Committee. The Loan Committee shall make a recommendation on the appeal to the Director, whose decision shall be final.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).

§ 7428. Disbursement of Funds.

The following procedure shall govern disbursement of funds to local entities.

(a) Funds for loans will be disbursed to, or on behalf of, the local entity as the need for funds arises in a manner determined by the Department. Such disbursements may include advance payments on the total approved loan fund commitment and payments thereafter as needed to facilitate effective administration of the program by local entities.

(b) The Department shall disburse administrative grant funds to local entities on a quarterly basis or on a loan–by–loan basis, at the discretion of the Department.

(c) The local entity must request disbursements of funds in writing at least twenty days before receipt is required.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).

§ 7430. Cancellation of Commitments.

Commitments to local entities may be cancelled by the Department after they have been approved but before any disbursements have been made, or further disbursements may be cancelled after initial disbursements have been made if a local entity is not operating the program in accordance with the schedule or other provisions in the application or Standard Agreement or if the objectives of the commitment cannot be met. Upon notice of cancellation, the local entity shall have a right to a hearing before the Loan Committee. The Loan Committee shall consider the appeal at its next regularly scheduled meeting and make a recommendation to the Director, whose decision shall be final.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment filed 6–3–85; effective thirtieth day thereafter (Register 85, No. 23).

§ 7432. Defaults, Transfers and Assumptions.

(a) In the event a borrower should default on any of its debts to a lender or creditor whose loan is secured in any manner by the subject property and the lender or secured creditor should proceed to force a sale of the subject property after a foreclosure procedure, or in the event a judgment has been taken against the property owner and the judgment creditor should proceed to force a sale of the subject property in satisfaction of its claim, the Department by this fact approves the sale. In the case of an assisted owner–occupied unit, the deferred payment loan shall be repaid according to law or the loan may be assumed for the remaining term of the loan by an eligible purchaser, with the approval of the Department; at the end of the loan term, such loan shall be repaid in full including all accrued interest. In the case of elderly owner–occupants, deferred payment loans shall be repaid in full, including all accrued interest, upon sale or transfer of the property. If the property includes assisted rental units, the purchaser may take it subject to the restrictions of the loan agreement between the local entity and borrower, subject to the approval of the Department.

(b) If an assisted owner–occupied unit is transferred, the deferred payment loan shall either be repaid or may be assumed for the remaining term of the loan by a person who meets eligibility requirements of the program, with the approval of the Department; at the end of the loan term, such loan shall be repaid in full, including all accrued interest. In the case of elderly owner–occupants, deferred payment loans shall be repaid in full including all accrued interest, upon sale or transfer of the property. If a property with assisted rental units is transferred, the transferee may assume the loan. In all cases, the transferee of a property with assisted rental units shall take the property subject to the restrictions of the loan agreement between the local entity and the original borrower, subject to the approval of the Department.

(c) Local entities shall process requests or applications for loan assumptions in accordance with these regulations, using documents provided by the Department, during the term of the Standard Agreement between the local entity and the Department. This obligation shall continue until all loans under this program have been paid in full.

(d) When a loan is repaid by an owner–occupant borrower, the loan agreement with the borrower shall be terminated and the Deed of Trust shall be reconveyed.

(e) A reserve fund in the amount of 3 percent of the maximum amount of total program assets, including the total outstanding loan balance plus the balance of the Housing Rehabilitation Loan Fund, shall be maintained by the Department. The reserve fund balance shall be calculated annually. The purpose of this fund is to permit the Department to utilize such funds, when required in the case of a defaulted loan to protect the security interests of the Department. In addition, such funds may be applied to the State's administrative and legal expenses incurred in connection with such defaults. The Loan Committee may change the size of and establish the terms or use of the reserve fund by a majority vote.

(f) In the event a borrower or successor–in–interest defaults on any material provision of the loan agreement or these regulations, the local entity shall promptly demand rectification of the default. If substantial progress is not made in rectification within 30 days from such notice, at the discretion of the Department the local entity shall declare the note evidencing the loan to be due and payable.

(g) In the event a local entity defaults on any material provision of the Standard Agreement with the Department or these regulations, the Department may demand rectification of the default. If substantial progress is not made in rectification within 60 days from such notice, the Department may seek such remedies as are available to it under the terms of the Standard Agreement.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50668, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment filed 6–3–85; effective thirtieth day thereafter (Register 85, No. 23).
3. Amendment of subsection (e) filed 3–17–86; effective thirtieth day thereafter (Register 87, No. 12).

§ 7434. Disposition of Recaptured Funds.

All funds repaid to the Department because of termination, transfer, sale, conveyance, alienation, breach, or default will be deposited in the Housing Rehabilitation Loan Fund and be available for commitments to other eligible local entities and for administrative costs.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY

1. Amendment filed 10–2–81; effective thirtieth day thereafter (Register 81, No. 40).

§ 7436. Technical Assistance.

The Department may offer technical assistance to eligible local entities in the preparation of applications and in the design and implementation of program activities, to the extent deemed feasible by the Department.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference cited: Sections 50660–50670, Health and Safety Code.

§ 7438. Displacement and Relocation.

(a) Local entities shall ensure provision of affordable temporary housing to eligible households residing in a rental housing development prior to rehabilitation if such households are required to move temporarily during rehabilitation, in accordance with the requirements of subdivisions (c)–(f) of Government Code Section 7265.3.

(b) Local entities shall ensure provision of payments to eligible persons and families permanently displaced as a result of rehabilitation work in accordance with the requirements of subdivisions (a)–(b) and (e)–(f) of Government Code Section 7265.3.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

History

1. New section filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).

Subchapter 5.5. Special User Housing Rehabilitation Program

§ 7450. Scope and Authority.

These regulations set forth policies governing the implementation, management and use of the Special User Housing Rehabilitation Program. They establish procedures to provide deferred payment loans from the Housing Rehabilitation Loan Fund for the rehabilitation or acquisition and rehabilitation of rental housing developments for occupancy of eligible households of low or very low income.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669-50670, Health and Safety Code.

History

1. New Subchapter 5.5 (Sections 7450-7480, not consecutive) filed 12-26-80; effective thirtieth day thereafter (Register 80, No. 52).
2. Amendment (including Subchapter heading) filed 4-5-94; effective thirtieth day thereafter (Register 84, No. 14).

§ 7452. Definitions.

"Affordable rent" shall mean affordable rents for low and very low income households as defined in Section 6922.

"Deferred payment loan" means a loan for rehabilitation or acquisition and rehabilitation of rental housing developments made from the Housing Rehabilitation Loan Fund.

"Department" means the California Department of Housing and Community Development.

"Director" means the Director of the California Department of Housing and Community Development.

"Elderly" means a single person or a household as defined in Section 50067 of the Health and Safety Code.

"Eligible household," for purposes of this subchapter means persons of low or very low income, when pertaining to residential hotels; and elderly and handicapped persons of low or very low income, when pertaining to other rental housing developments.

"Fair Rate of Return" means an annual amount of return on investment no greater than 8 percent of the sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development.

"Fund" means the Housing Rehabilitation Loan Fund.

"Gross Income" means the income of a person or family as defined in Section 6914.

"Handicapped" means a family in which the head of household is suffering from an orthopedic disability impairing personal mobility or a physical disability affecting his or her ability to obtain employment or a single person with such a physical disability, where the family or person requires special care or facilities in the home. "Handicapped" also includes a family in which the head of household suffers from a developmental disability specified in Welfare and Institutions Code Section 4512(a) or a mental disorder which would render him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, or a single person with such a developmental disability or mental disorder.

"Head of Household" means an individual who actually supports and maintains in one household one or more individuals who are closely connected with him or by her by blood relationship, relationship by marriage, or by adoption, and whose right to exercise family control and provide for the dependent individuals is based upon some moral or legal obligation.

"Loan Committee" means the Rehabilitation and Housing Assistance Loan and Grant Committee established pursuant to Section 6902(d).

"Low income" means the income limit established by Section 6298.

"Net income" means the income of a person or family as defined in Section 6916.

"Non-profit corporation" means a corporation organized and incorporated pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code or subject to said Part pursuant to Section 5003 of the Corporations Code.

"Regulatory agreement" means that document or documents entered into between the sponsor and the Department which governs the rights and obligations of the department, sponsor and existing prospective tenants of the rental housing development, and contains other provisions necessary to carry out the purposes of this program.

"Rehabilitation" means repairs and improvements to a substantial residential property or structure necessary to meet applicable building and housing codes and unit/room composition changes permitted pursuant to this subchapter. "Rehabilitation" shall also include retrofitting for accessibility and use by the elderly and handicapped.

"Rent" means the total of monthly payments for occupying a unit in a rental housing development, as defined in Section 6918.

"Rental housing development" means a rental structure or structures containing five or more rental dwelling units, provided each unit is equipped with a kitchen and bathroom. It also shall mean: (1) a structure or structures where five or more handicapped individuals reside in a group living arrangement; and (2) a residential hotel.

"Residential hotel" means any building containing six or more rooms intended or designed to be used for, or which are occupied for, sleeping purposes by tenants, which is also the primary residence of these tenants, provided that a majority of these rooms are residential hotel units.

"Residential hotel unit" means a room in a residential hotel used or intended or designed to be used as a primary residence, which is subject to the provisions of Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code, but which lacks either or both a self-contained kitchen or bathroom.

"Rural area" means an area meeting the requirements of Section 50101 of the Health and Safety Code.

"Sponsor" means an entity meeting the requirements of Section 50069(c) of the Health and Safety Code.

"Substandard rental housing development" means a structure or structures used or intended to be used as a rental housing development which does not meet applicable local or State building or housing standards adopted pursuant to the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code and specifically Section 17958.8

"Very low income" means the income limit established by Section 6926.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 5052.5, 50064, 50067, 50072, 50079.5, 50091, 50101, 50669 and 50670, Health and Safety Code.

History

1. Amendment filed 4-5-84; effective thirtieth day thereafter (Register 84, No. 14).
2. Amendment filed 6-9-87; operative 7-9-87 (Register 87, No. 25).

§ 7454. Eligible Use of Funds.

The Department shall provide direct deferred payment loans from the Fund to eligible sponsors to be used for the following purposes:

(a) to rehabilitate a substandard rental housing development for occupancy by eligible households without the use of rental assistance subsidies; or

(b) to purchase and rehabilitate a substandard rental housing development for occupancy by eligible households without the use of rental assistance subsidies.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669-50670, Health and Safety Code.

§ 7456. Authorized Expenses.

(a) Loans from the Fund may be used for costs including, but not limited to, the following authorized expenses:

(1) All or a portion of the costs of purchasing rental housing developments;

(2) All or a portion of the costs of rehabilitating and otherwise upgrading the rental housing development to conform with applicable building or housing codes and to improve habitability and maintenance of the property, except:

(A) Purchase, installation, or repair of furnishings other than essential appliances;

(B) Materials, fixtures, or equipment of a type or quality which exceeds that customarily used for properties of the same general type to be rehabilitated.

(C) Administrative and overhead costs, except as provided in subparagraph (a)(13).

(3) The cost of room additions or enlargements, if the sponsor can document the need to eliminate overcrowding or unhealthy conditions.

(4) Costs of improvements related to making a unit accessible to and useable by the elderly or handicapped.

(5) The cost of architectural, engineering, and other professional services for the development of the project, including but not limited to the preparation of plans, drawings, and specifications for the rehabilitation of the property.

(6) The cost of building permits and related fees required for the rehabilitation.

(7) The cost of title reports, title insurance, appraisals and fees for recording documents related to the loan.

(8) The cost of repair and installation of energy conservation systems and weatherization when done in conjunction with other rehabilitation work.

(9) The cost of security and fire protection devices.

(10) Costs relating to displacement and temporary or permanent relocation of existing tenants of the rental housing development.

(11) Costs required by the Department related to review and approval of the loan.

(12) The cost of legal fees.

(13) The cost of a non-profit sponsor's overhead and administration directly related to program implementation may be included in a loan, provided the sponsor can demonstrate that such costs are necessary for the non-profit corporation to implement the project. Such costs shall not exceed 5 percent of the total loan amount, or $20,000, whichever is less.

(b) In buildings with mixed residential and commercial uses, loans from the Fund may be used for the cost of all items specified in subdivision (a) associated exclusively with the residential use. They may also be used for a share of the cost of such items that cannot specifically be allocated to either the residential or commercial uses; this share shall not exceed an amount in direct proportion to the ratio between the gross floor area of the residential use and the total gross floor area of the buildings. No loans from the Fund may be used for costs associated exclusively with commercial uses or with common elements, such as exterior facades, that are improved primarily for the benefit of the commercial use.

(c) No loans from the Fund may be used to refinance existing permanent financing.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

HISTORY

1. Amendment filed 4–5–84; effective thirtieth day thereafter (Register 84, No. 14).
2. Amendment of subsection (a)(13) filed 6–9–87; operative 7–9–87 (Register 87, No. 25).

§ 7458. Eligibility of Sponsors.

(a) At the time of application for assistance, the sponsor shall provide evidence to the Department that it has or will have the capability to rehabilitate, own and/or manage the rental housing development. In determining the capability of a sponsor, the Department shall consider the extent to which the sponsor is or will be:

(1) administratively and financially capable, as evidenced by a current financial statement and previous experience of the sponsor or persons affiliated with the sponsor in developing, owning, managing or rehabilitating private or publicly-assisted housing developments; and

(2) capable of proceeding promptly to implement a program to acquire and rehabilitate, or rehabilitate and manage a rental housing development for eligible households in accordance with this subchapter.

(b) If the sponsor is a local public entity (including a city; county and county; housing authority; redevelopment agency; community development commission; or any other local agency established by, or whose members are the same as, or appointed by, the legislative body of a city, county, or city and county), as a condition of eligibility to apply for funds pursuant to this subchapter, the city, county, or city and county with jurisdiction over the proposed project shall have submitted a housing element which is in accordance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code to the Department. However, no application for funds shall be denied because of the content of the housing element or because of the findings made by the Department pursuant to Section 65585 of the Government code.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

HISTORY

1. Amendment filed 4–5–84; effective thirtieth day thereafter (Register 84, No. 14).

§ 7460. Loan Limits, Rates and Terms.

The following loan limits, rates and terms shall apply to all loans made pursuant to this subchapter.

(a) Loan Limits:

(1)

	Residential Hotel Unit	*Small Unit (less than 3 bedrooms)*	*Large Unit (3 bedrooms or more)*
Rehabilitation	$15,000	$25,000	$35,000
Acquisition/Rehabilitation	$25,000	$35,000	$45,000

For rehabilitation of a single-family dwelling the loan limit is $45,000 for a project of up to three bedrooms, plus $10,000 for each additional bedroom beyond three bedrooms. For acquisition/rehabilitation of a single-family dwelling, the loan limit is $160,000 for a project of up to three bedrooms, plus $40,000 for each additional bedroom beyond three bedrooms.

(2) Exceptions to these limits may be approved by the Director if warranted by the presence of extraordinary conditions, such as high prevailing costs of acquiring rental housing developments in certain localities or the need for extensive structural rehabilitation work required by the state or local building and safety codes.

(3) The maximum deferred payment loan plus other indebtedness against the property shall not exceed 90 percent of the sum of the fair market value of the rental housing development prior to rehabilitation or acquisition and rehabilitation plus the anticipated cost of the rehabilitation work to be undertaken. A nonprofit or local public entity sponsor may receive a 100 percent loan if it demonstrates the need for full financing.

(b) Loan Rates:

(1) Loans shall bear simple interest at the rate of 3 percent per annum on the original principal balance disbursed, to be paid annually. However, the Department may reduce or eliminate interest payments on a loan for any year, or alternatively defer interest payments until the deferred payment loan is due, if the Department determines that payment of interest will threaten the provision of affordable rents or the fiscal integrity of the rental housing development.

(2) Principal and any approved deferred interest payments shall be deferred and paid in a single payment at the expiration of the term of the loan or pursuant to section 7472.

(c) Term: Loans shall have a term of the lesser of 30 years or the useful life of the housing development, as determined by an appraisal of the property accepted by the Department.

NOTE: Authority cited: Section 50662 and 50668.5, Health and Safety Code. Reference: Section 50670, Health and Safety Code.

HISTORY

1. Amendment filed 10–5–89 as an emergency pursuant to Government Code section 11346.1; operative 10–10–89 (Register 89, No. 41). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language

will be repealed by operation of law on 2–7–90. For prior history, see Register 89, No. 24.

2. Amendment refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 6–7–90.

3. Amendment of subsection (a)(1) filed 3–5–90 as an emergency; operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.

4. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment transmitted to OAL 3–16–90 and filed 4–16–90; operative 5–16–90 (Register 90, No. 20).

§ 7462. Regulatory Agreement.

Before any funds may be disbarred from the Fund, the Department shall enter into a Regulatory Agreement with sponsors, which shall include, but not be limited to:

(a) standards for tenant selection to ensure occupancy by eligible households;

(b) a rent schedule established by the Department at levels affordable to low income households to the extent consistent with the financial integrity of the rental housing development;

(c) conditions and procedures for permitting rent increases;

(d) limitations on profits allowed for–profit and limited–profit sponsors to a fair rate of return. No return shall be allowed non–profit and public entity sponsors;

(e) assurances that the sponsor will maintain the rental housing development in a safe and sanitary condition in compliance with state and local housing codes;

(f) conditions and a schedule for reporting to the Department by the sponsor;

(g) conditions relating to Departmental review and inspections;

(h) a schedule for project implementation, including a timetable for ownership of the rental housing development, commencement of rehabilitation work, and occupancy of the project by eligible households;

(i) conditions relating to completion of rehabilitation work, fund disbursements, and reporting of progress;

(j) provisions relating to the term and amount of the loan, repayment to the Fund, payment of interest, assumptions of the loan, refinancing and sale of the rental housing development;

(k) terms and conditions with respect to default, late repayment and collection of loans;

(l) terms and conditions relating to breach of the regulatory agreement and remedies therefore;

(m) provisions regulating the terms of the occupancy agreement between the sponsor and tenants of the rental housing development, including terms requiring good cause for any eviction, the establishment of a grievance procedure for hearing complaints of tenants and providing for notice to tenants of proposed rent increases;

(n) provisions ensuring that the relocation requirements of Section 50670(g) of the Health and Safety Code will be adhered to;

(o) provisions requiring the approval of the Department for all general contracts for approved rehabilitation work; such contracts shall include provisions which require, pursuant to state or federal law, the use of affirmative action in hiring by contractors and subcontractors;

(p) provisions limiting encumbrances against the rental housing development without prior Department approval;

(q) provisions relating to a replacement reserve;

(r) provisions relating to requirements for proper management of the rental housing development, including approval by the Department for any management contract or master lease; and

(s) other provisions necessary to assure compliance with the intent of the program.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

HISTORY

1. Amendment of subsections (d) and (r) filed 4–5–84; effective thirtieth day thereafter (Register 84, No. 14).

2. Amendment of subsection (n) filed 6–9–87; operative 7–9–87 (Register 87, No. 25).

§ 7464. Loan Closing, Security, and Disbursements.

(a) Before the Department may disburse funds to any sponsor, the approved loan shall be closed by execution of the following agreements and documents, which will have been prepared by the Department or at its direction:

(1) a regulatory agreement;

(2) a promissory note;

(3) security instrument(s); and

(4) other agreements and documents required by the Department.

(b) The sponsor must demonstrate that sufficient security may be given to secure both the amount of the loan and the obligations and restrictions of the regulatory agreement. A deed of trust in a form approved by the Department shall be executed in favor of the Department. Upon execution by the sponsor and Department, the deed of trust and regulatory agreement, which shall constitute an enforceable lien on the rental housing development, shall be recorded in the office of the county recorder of the county in which the rental housing development to which they relate is located.

(c) Loan Disbursements. Program loan funds will be disbursed to, or on the behalf of, the sponsor as the need for funds arises. Sponsors must request disbursements of loan funds on forms approved by the Department at least 20 days before receipt is required. Disbursement requests must be supported with evidence of an obligation. The Department may contract for services related to the disbursement of loan funds to sponsors.

(d) The sponsor shall obtain ownership of the rental housing development within six months of loan approval. No funds shall be disbursed for rehabilitation work until the sponsor owns the rental housing development.

NOTE: Authority cited: Section 50622, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

HISTORY

1. Amendment of subsection (c) filed 4–5–84; effective thirtieth day thereafter (Register 84, No. 14).

§ 7466. Tenancy Standards and Procedures.

Procedures for tenant selection, rents, and eviction for tenants of residential housing developments shall be governed by the regulatory agreement which shall include, but not be limited to, the following terms:

(a) Sponsors shall select only eligible households as tenants.

(b) Sponsors shall give first priority subsequent to rehabilitation to eligible households displaced as a result of rehabilitation assisted by the Program.

(c) Sponsors shall not unlawfully discriminate or permit unlawful discrimination in the selection or treatment of tenants, and shall abide by all local, State, and Federal laws and regulations prohibiting such discrimination.

(d) The Department shall establish a schedule of affordable rents to low and very low income tenants of the rental housing development, to the extent consistent with the financial integrity of such development. Rents may be periodically increased after sponsors submit a written request to the Department which demonstrates that such increases are necessary to defray operating costs and to avoid jeopardizing the financial integrity of the housing development. Rents may be increased only upon Department approval of the request. In the event that the Department does not act on a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved.

(e) The sponsor shall use a lease for occupancy on a form approved by the Department. Included in the lease shall be a requirement that tenants shall promptly report to sponsors any increase in income. Sponsors shall annually redetermine tenants' income eligibility on a form approved by the Department. If a tenant's net income exceeds the upper limit for low income households, the tenant shall be required to vacate the assisted unit within six months from the date of income redetermination or notice to the sponsor of an increase in income over the permissible income level.

(f) The sponsor and tenants shall comply promptly and fairly with the responsibilities under law and as set forth in the lease.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

HISTORY

1. Amendment of subsection (d) filed 4–5–84; effective thirtieth day thereafter (Register 84, No. 14).

§ 7470. Departmental Review of Rehabilitation and Operations.

(a) The Department shall issue administrative standards governing inspection, preparation of rehabilitation specifications, bidding, awards to contractors, disbursement of funds to contractors or others, and monitoring procedures during the process of rehabilitation.

(b) At any time during the acquisition, rehabilitation, and the term of the loan, the Department may initiate a review or a financial or physical audit of any and all phases of the sponsor's activities under the Program. The sponsor shall promptly provide any requested documentation related to such activities.

(c) The sponsor shall submit a certified report annually to the Department in a form approved by the Department. The report shall contain such information as the Department may require, including but not limited to:

(1) Certification by the sponsor as to the financial condition of the rental housing development, as evidenced by a financial statement including a balance sheet and profit and loss statement indicating surplus or deficits in operating accounts and the amounts of any fiscal reserves;

(2) Certification of any substantial physical defects in the rental housing development, including a description of any notice or citation for violations of local housing codes or any major repair or maintenance work undertaken or needed in the reporting year;

(3) the occupancy of the rental housing development indicating:

(A) for rental housing developments other than residential hotels, the number of elderly, handicapped or elderly and handicapped households currently residing in the rental housing development;

(B) the incomes of current residents;

(C) current rents charged residents and what utilities, if any, are included in the rents.

(4) general management performance, including occupancy rates, management problems, tenant relations, and other relevant information;

(5) other information deemed necessary by the Department to monitor compliance with the regulatory agreement.

(d) At the Department's request, the sponsor shall provide, at its own expense, an audit of the financial condition of the rental housing development certified by a Certified Public Accountant or other person designated by the Department.

(e) Any person may request the Department to review any phase of implementation or operation of the sponsor's program. Grievances may relate to, but not be limited to, eligibility, terms of tenancy, or authorized expenditures. Review undertaken by the Department under this section may be informal or, at the Department's discretion, may follow the procedures outlined in Government Code, Sections 1180 et seq. Failure to petition the Department shall not limit a complainant's right to seek judicial review, nor shall such review replace a complainant's right to seek de novo judicial review.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

HISTORY

1. Amendment of subsections (b) and (c)(2)–(c)(5) filed 4–5–84; effective thirtieth day thereafter (Register 84, No. 14).

§ 7472. Defaults, Transfers and Loan Cancellation.

(a) In the event a sponsor should default on any of its debts to a lender or creditor whose loan is secured in any manner by the subject property, and the lender or secured creditor should proceed to force a sale of the subject property after a foreclosure procedure, or in the event a judgment has been taken against the property owner and the judgment creditor should proceed to force a sale of the subject property in satisfaction of its claim, the Department by this fact approves the sale.

(b) No sponsor shall sell, encumber or convey the rental housing development without express, prior written approval of the sale by the Department. Approval of a sale or conveyance shall be given, provided:

(1) the successor–in–interest to the grantor agrees to assume the deferred payment loan and all obligations of the existing sponsor pursuant to the regulatory agreement and this program; and

(2) the successor in interest is an eligible sponsor and demonstrates to the Department's satisfaction that it can successfully own and operate the rental housing development.

(c) In addition, the Department may permit a sale and termination of the regulatory agreement and all other obligations pursuant to this subchapter only if:

(1) all sums owed to the Department by the sponsor are paid; and

(2) Such an action is necessary to protect the interests and security of the state.

(d) In the event a sponsor or successor–in–interest defaults on any material provision of the deed of trust or regulatory agreement, the Department shall provide the sponsor with a written notice of breach or default and seek and encourage correction or compliance. If substantial progress is not made in rectification within 30 days of such notice, the Department may, at its discretion, declare the note evidencing the loan to be due and payable. In addition, the Department may seek any other remedy available in law or equity.

(e) In the event of foreclosure, default, or forced sale, the purchaser shall take title subject to the conditions of the regulatory agreement for the remaining duration of the original loan term.

(f) Unexpended loans to sponsors may be cancelled by the Department if the objectives of the loan cannot be met, implementation cannot proceed according to the sponsor's plans and schedule, special conditions have not been fulfilled within required periods, control/ownership of the rental housing development has not been obtained within six months, or rehabilitation has not commenced within twelve months of the date of loan approval. Upon receipt of a notice of intention to cancel the loan from the Department, the sponsor shall have a right to a hearing before the Loan Committee within thirty days; the Committee shall make a recommendation to the Director, who shall issue a written decision within ten working days of the hearing.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

HISTORY

1. Amendment of subsections (b) and (d) filed 4–5–84; effective thirtieth day thereafter (Register 84, No. 14).

§ 7474. Application Process.

(a) Applications for Special User Housing Rehabilitation Program deferred loan funds shall be made on forms supplied by the Department and in accordance with request for proposal guidelines and instructions to be issued by the Department. Information required shall include, but not be limited to, the following:

(1) evidence of sponsor eligibility of the applicant pursuant to the provisions of Section 7458;

(2) a detailed plan of the proposed project, including:

(A) the amount of loan funds requested;

(B) a description of the nature and costs of rehabilitation or acquisition and rehabilitation to be undertaken;

(C) a plan for ownership, management, and occupancy of the development;

(D) a financial analysis of the project, indicating anticipated expenses and revenues:

(E) a description of the existing liens and loans on or secured by the property;

(F) an analysis of existing and projected rent levels, including a determination as to whether projected rents will be affordable to very low income households;

(G) an indication of any temporary or permanent displacement and relocation of current residents which may be necessary, and costs of such activities; and

(H) a schedule for implementation.

(b) After receipt of an application, the Department shall provide notice to the local governing body of the community in which the assisted rental housing development will be located to provide an opportunity for comment by that community.

(c) Applications for loans will be reviewed by the staff of the Department to determine project eligibility and economic feasibility. The Department may require that an independent appraisal, at the sponsor's expense, be made of the value and cost of rehabilitation of the property and shall inspect the proposed rental housing development to ensure the economic feasibility of rehabilitating the property.

(d) Applications which involve acquisition of a rental housing development shall include a copy of an agreement or option between the sponsor and seller of the rental housing development which specifies all terms of the prospective sales transaction.

(e) On the basis of its review of the applications, Department staff will prepare recommendations, and submit such recommendations to the Loan Committee for its review and recommendation within 90 days after the application is deemed complete.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 4–5–84; effective thirtieth day thereafter (Register 84, No. 14).

§ 7476. Loan Committee Review and Action.

(a) The Loan Committee shall review all applications for Special User Housing Rehabilitation Program deferred loans, except emergency loans, and all other significant matters affecting rental housing developments assisted by the Program including, but not limited to, reductions or elimination of annual interest payments. It shall adopt operating policies and procedures for the Program, and shall perform other functions and duties as may be required by the Director or by law.

(b) The Loan Committee shall be constituted and shall operate as set forth in Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of Part 1 of Title 25, California Administrative Code.

(c) In taking action on applications or other matters, the Loan Committee shall consider the application or request, any written or oral testimony of an applicant or other interested person, priorities or loan distribution policies pursuant to Section 7478, recommendations of Program staff, and any other relevant information.

(d) Approval, approval with conditions, or denial of any action by the Loan Committee shall constitute a recommendation to the Director, who shall consider the Committee's recommendation in approving or denying a loan or any other matter.

(e) The Director shall, within 15 days after the date on which the loan committee considers any request for action, inform the applicant in writing of its decision, stating:

(1) that it has approved, approved with conditions, denied, or continued consideration of the request or application;

(2) the basis for denial or postponement of consideration; and

(3) that the applicant has a right of appeal as specified in Section 7580.

(f) The Director shall specify in any decision regarding approval of an application:

(1) the amount and terms of the deferred payment loan to be provided to the applicant or the terms of any other decision; and

(2) conditions attached to the approval of the loan or other request.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

HISTORY

1. Amendment of subsections (a), (e) and (f) filed 4–5–84; effective thirtieth day thereafter (Register 84, No. 14).

§ 7478. Funding Priorities and Loan Distribution Policies.

(a) Priorities for allocation of Special User Housing Rehabilitation Program funds shall be given to applications which:

(1) address a major unmet local housing need, as evidenced by indicators such as low vacancy rates and high market rents in comparable unsubsidized developments and long waiting lists for comparable subsidized developments, and as evidenced by specific provisions in a local public entity's adopted Housing Element, Housing Assistance Plan or Redevelopment Plan which identifies needs and implementation strategies directly related to the type of project for which the application was submitted;

(2) prevent or minimize permanent displacement of existing residents;

(3) show evidence of local support in the form of financial assistance or assistance in the rehabilitation process;

(4) demonstrate superior ability to manage the development after rehabilitation, as evidenced by relevant factors such as experience managing comparable developments, qualifications of the management team, and the quality of the sponsor's plans for management;

(5) involve projects located on sites appropriate to the needs of prospective residents;

(6) maximize long–term benefit for very low income households;

(7) demonstrate superior ability to acquire and rehabilitate the project, as demonstrated by relevant factors such as previous development experience, general qualifications of the development team, and financial stability;

(8) correct major health and safety code violations rather than make only general property improvements;

(9) use Program funds in a cost–effective manner, as measured by such relevant indicators of cost–effectiveness as the per–unit allocation of Program funds and the ratio of Program funds to other funds used on the project;

(10) provide for after–rehabilitation rents below the local market average; and

(11) meet other priorities that may be established administratively by the Department.

(b) At least twenty percent of the total value of loans provided from the Fund to the Special User Housing Rehabilitation Program shall be for rental housing developments located in rural areas.

(c) At least twenty–five percent of the total value of loans provided from the Fund to the Program for rental housing developments other than residential hotels shall benefit handicapped households.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

HISTORY

1. Amendment filed 4–5–84; effective thirtieth day thereafter (Register 84, No. 14).
2. Editorial correction of subsections (a)(4), (a)(7) and (a)(9) filed 4–23–84; designated effective 5–5–84 (Register 84, No. 17).

§ 7480. Appeals Procedure.

Appeals shall be governed by the procedures set forth in Section 6906, Subchapter 1, Chapter 6.5, Part 1, Title 25, California Administrative Code.

NOTE: Authority cited: Section 50662, Health and Safety Code; Reference cited: Sections 50669–50670, Health and Safety Code.

Subchapter 6. Housing Advisory Service

Article 1. Purpose, Authority and Policy

§ 7500. Purpose.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50690–50699, Health and Safety Code.

HISTORY

1. New Subchapter 6 (Sections 7500–7526, not consecutive) filed 2–9–79 as an emergency; effective upon filing (Register 79, No. 6).

2. Certificate of Compliance filed 6–13–79 (Register 79, No. 24). Transmitted to OAH 6–8–79.
3. Change without regulatory effect repealing subchapter 6 (sections 7500–7526, article 1 (sections 7500–7504), and section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 7502. Authority.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50690–50699, Health and Safety Code.

HISTORY

1. Repealer filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).

§ 7504. Policy.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50691, 50693 and 50697, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

Article 2. Definitions

§ 7506. Definitions.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50692, Health and Safety Code.

HISTORY

1. Amendment of subsections (f) and (h); effective thirtieth day thereafter (Register 79, No. 24).
2. Amendment of subsection (c) filed 6–19–80; effective thirtieth day thereafter (Register 80, No. 25).
3. Amendment filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
4. Order of Repeal of last four definitions filed 6–3–85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
5. Change without regulatory effect repealing article 2 (section 7506) and section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

Article 3. Awarding of Grants

§ 7508. Awarding of Grants.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50694 and 50697, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing article 3 (sections 7508–7526) and section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 7510. Eligible Sponsors.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50691–50694, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 7512. Priorities in Awarding Grants.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 7514. Amount of Grants.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50694 and 50696, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 7516. Funding Period.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50694 and 50696, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 7518. Restrictions on Use of Grants.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50694, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 7520. Submission of Grant Proposals.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50694, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 7522. Request for Proposal Information.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50695, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 7524. Administration of Grants and Reporting Requirements.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50694 and 50695, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 7526. Evaluation of Grantees.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50695, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 4–21–82; effective thirtieth day thereafter (Register 82, No. 17).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

Subchapter 6.5. California Self–Help Housing Program

Article 1. General

§ 7530. Purpose and Scope.

This subchapter implements and interprets the California Self–Help Housing Program, Chapter 7.5 (commencing with Section 50690) of the Health and Safety Code. It establishes procedures for the award and disbursement of loans and grants and establishes policies and procedures for use of these funds to assist self–help construction of housing by low– and moderate–income households.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50690–50698, Health and Safety Code.

HISTORY

1. New Subchapter 6.5 (Articles 1–6, Sections 7530–7584, not consecutive) filed 4–16–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 16).

§ 7532. Definitions.

In addition to the definitions contained in Chapter 2 (commencing with Section 50050) and Section 50692 of the Health and Safety Code, the following definitions apply to this subchapter:

"Applicant" means any eligible sponsor applying for funds pursuant to this subchapter.

"Assisted units" means residential units which have been constructed or rehabilitated with technical assistance or funds provided in whole or in part from the Fund and which are, or will be, occupied by eligible households.

"Cooperative" means a limited equity housing cooperative as defined in Health and Safety Code Section 33007.5.

"Department" means the California Department of Housing and Community Development.

"Deferred Payment Loan" means a loan made by the Department to an eligible household, rental sponsor or cooperative from the Fund pursuant to Article 5 of this subchapter.

"Director" means the Director of the Department of Housing and Community Development, or his or her delegate.

"Eligible Household" means: (a) for purposes of technical assistance, a low- or moderate-income household participating in a self-help housing program conducted by an eligible sponsor; and (b) for purposes of mortgage assistance, eligible household means a low-income household participating in a self-help housing program conducted by an eligible sponsor. An eligible household must own, or have the opportunity to own, a residential unit, must be accepted as a member of a limited equity housing cooperative, or a renter, pursuant to Section 7576.

"Eligible Sponsors" means local public entities or nonprofit corporations including cooperatives that are engaged in, or will be engaged in developing, conducting, administering or coordinating programs of assistance which will aid eligible households construct or rehabilitate residential units for their own use.

"Fund" means the Self-Help Housing Fund established by Section 50697.1 of the Health and Safety Code.

"Grantee" means an eligible sponsor that has received a grant or loan from the fund.

"Gross Monthly Income" means gross monthly income as defined in Section 6914, of this Part.

"Low-income households" means the same as lower-income households.

"Lower-income households" means persons and families who meet the requirements of Section 6928 of this Part.

"Moderate-income households" means persons and families who meet the requirements of Section 6930 of this Part.

"Monthly housing costs" means housing costs as set forth in Section 6920 of this Part.

"Project" means a housing development as defined by Section 50073 of the Health and Safety Code. In addition, "project" includes the provision of technical assistance to eligible households.

"Property" means the real property on which the self-help construction has or will be undertaken and includes the improvements thereon.

"Rehabilitation" means rehabilitation as defined in Section 7402 of this Part and specifically excludes items listed in Section 7414(c) 1 through 9 of this Part.

"Rental Housing Development" means a rental housing development as defined in Section 7802 of this Part.

"Rental Sponsor" means an eligible sponsor who is, or will be, the owner of a rental housing development.

"Self-help construction" means owner building or self-help rehabilitation as defined in Section 50692 of the Health and Safety Code and may include mutual self-help housing as defined in Section 50087 of the Health and Safety Code.

"Sweat-equity" means the cost savings to an assisted unit attributable to self-help construction. This amount shall be calculated by subtracting the equity prior to the commencement of work on the assisted unit from the equity at the completion of the assisted unit. For the purposes of this definition, equity means the difference between the fair market value of the property and the total of all outstanding debts secured by the property plus all payments provided by the owner.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Chapter 2 (commencing with Section 50050) and Section 50692, Health and Safety Code.

HISTORY

1. Repealer of definition of "Committee" filed 11–1–2004; operative 12–1–2004 (Register 2004, No. 45).

Article 2. Application Process

§ 7540. Application Process.

(a) Applications for assistance may be made only in response to a Notice of Funding Availability (NOFA). The Department shall issue the NOFA for technical and mortgage assistance, specifying the amount of funds available, the dates that applications will be accepted, and the general terms and conditions of funding commitments. The Department shall also make information available in each NOFA describing the method used in evaluating applications in response to the NOFA.

(b) An eligible applicant seeking funding shall submit an application for each project containing the following information and material:

(1) For nonprofit applicants, a copy of the adopted by-laws, and articles of incorporation of the applicant and any amendments thereto; evidence, of tax-exempt status; and a current list of members of the governing board, principle officers and employees responsible for implementing the project;

(2) A detailed description of the project;

(3) A detailed plan and schedule for the project;

(4) A description of the type and amount of self-help construction to be utilized in the project;

(5) A detailed financial plan for the project which identifies the anticipated sources of all financing and proposed specific uses for program funds;

(6) The work experience of the parties implementing the project;

(7) Any commitments for financing and other assistance to the project;

(8) A certified resolution from the applicants' governing boards authorizing the submittal of an application and the execution of the documents and agreements required under the regulations;

(9) A list of funding sources for previous projects;

(10) Any other information required by the Department to determine the eligibility or evaluate the feasibility of the project.

(c) Department staff shall review applications and submit recommendations for disposition based on the criteria of Section 7542 and submit them to the Director for the Director's consideration and decision.

(d) Awards to any one sponsor shall not exceed 20 percent of monies available in each NOFA.

(e) A minimum of 20 percent of the Fund shall be set aside for rural areas unless 12 months after issuance of the first NOFA, the lack of eligible applications for technical assistance grants and mortgage assistance would result in unused funds.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

HISTORY

1. Amendment of subsection (c), repealer of subsection (d) and subsection relettering filed 11–1–2004; operative 12–1–2004 (Register 2004, No. 45).

§ 7542. Evaluation Criteria.

(a) Applications for funds that serve the largest proportion of low-income households shall receive priority.

(b) In evaluating technical assistance applications, the Department shall include, but not be limited to, the following factors in its evaluation:

(1) The extent to which the applicant uses available federal, state and local programs and resources in the project;

(2) The applicant's organizational capacity to carry out the project;

(3) The project's feasibility;

(4) The project's cost effectiveness in terms of per unit self-help housing fund costs; and

(5) The extent to which project participants use self-help labor.

(c) In evaluating mortgage assistance applications, the Department will consider the following factors in addition to the factors listed under (b).

(1) The extent to which the estimated cost of the units to be constructed or rehabilitated is consistent with the lowest possible cost of residential units in the same area meeting minimum health and safety code standards and local building and land use requirements;

(2) The extent to which adequate financing for the project is assured;

(3) The extent to which the grantee provides information on the estimated income levels of the households that are to receive mortgage assistance; and

(4) The likelihood that the applicant will complete the project within two years of executing an agreement with the Department, pursuant to Section 7562(d) of this Subchapter.

(d) The Department may establish more specific rating and ranking criteria in each Notice of Funding Availability, based on the criteria in (b) and (c) of this section.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

§ 7544. Conditional Commitment.

Upon approval by the Director, the recommendation of the Department staff shall constitute a conditional commitment of funds to the applicant subject to the terms of the NOFA, the contents of the application, and such conditions as may be included as part of the Director's approval. The Department and the applicant shall thereafter enter into the Technical Assistance Standard Agreement or the Mortgage Assistance Standard Agreement as appropriate, subject to the applicable provisions of this subchapter.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

HISTORY

1. Amendment filed 11-1-2004; operative 12-1-2004 (Register 2004, No. 45).

Article 3. Technical Assistance Grants

§ 7550. Technical Assistance Grants.

(a) The Department may make grants for technical assistance to eligible sponsors. Technical assistance funds may be used for the following purposes:

(1) Assistance, training, and supervision on self-help construction activities and techniques;

(2) Assistance in project development which includes, but is not limited to, the preparation of plans for self-help housing, preparation of contracts for professional services, application for project funding, packaging households' applications for assistance, preparation of subdivision maps, review of engineering plans and specifications for construction and rehabilitation projects, and compliance with appropriate requirements of funding agencies and local government;

(3) Administrative costs of providing technical assistance for the activity funded by the Department including, but not limited to, wages, salaries and fringe benefits of clerical and management personnel and payment for rent, utilities, communications, printing and travel expenses.

(b) Technical assistance grants shall not be used for purchase of land, materials, tools and construction equipment, or for any costs of construction.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

§ 7552. Amount and Term of Grants.

(a) The Department shall ensure that not less than 15 percent or more than 25 percent of a NOFA is used for technical assistance grants. However, the Department may adopt different allocation percentages if, 12 months after issuance of a NOFA, the lack of eligible applications for technical assistance grants would result in unused funds.

(b) The Department shall not award a technical assistance grant exceeding $300,000 for any one project.

(c) The grantee shall complete the project within two years from the effective date of the Technical Assistance Standard Agreement or such lesser term as may be set forth on the application's approval. Extension of the grant term may be made at the discretion of the Director in the event of delays in project implementation beyond the reasonable control of the grantee.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

HISTORY

1. Amendment of subsections (b) and (c) filed 3-22-2004; operative 3-22-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 13).

§ 7554. Technical Assistance Standard Agreement (TASA).

(a) A grantee under this Article shall execute a Technical Assistance Standard Agreement (TASA) with the Department.

(b) The TASA shall contain the following terms and conditions:

(1) The minimum number of new and/or rehabilitated units of self-help housing to be occupied by eligible households which will be developed as a direct result of the technical assistance grant.

(2) A budget setting forth the kinds and amounts of allowable expenditures to be made with the grant funds.

(3) The manner, timing and conditions for disbursement of funds to grantees.

(4) A timetable for completion of each stage of the project and for final project completion.

(5) Terms necessary to ensure compliance with these Regulations, and any special conditions imposed by the grant approval.

(6) The remedies of the Department in the event of a breach or violation by the grantee of the terms and conditions of the TASA.

(7) A requirement that the grantee submit to the Department a performance report for each stage of the project. Each report shall describe the progress of the project and shall include the estimated time to completion and a detailed itemized breakdown of grant and other expenditures. The Department shall have the right, without charges or royalty, to publish and distribute all reports, data, memoranda, bulletins or manuals developed or written by the grantee or its officers, employees, or agents in its implementation of the project.

(8) A provision that all books, records, documents and files of the grantee which are maintained for the project shall be available upon notice for inspection by the Department and its representatives.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

§ 7556. Disbursement of Funds.

Following grant approval and execution of a TASA, compliance with all applicable conditions therein, and upon submittal of the grantee's request for funds to commence the project, the Department may disburse an advance payment to the grantee. In order to receive an advance payment, the grantee must certify that it does not have available funds to initiate the project. The advance payment shall not exceed a three-month share of the amount budgeted for the total grant. Subsequent disbursements shall be made only to reimburse the grantee for actual and eligible costs incurred pursuant to the Technical Assistance Standard Agreement.

NOTE: Authority cited: Section 50698(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

Article 4. Mortgage Assistance: General Provisions

§ 7560. Eligible Uses of Funds.

(a) The Department may commit funds to eligible sponsors for the provision of mortgage assistance to eligible households engaged in self-help construction by either of the following two methods:

(1) As deferred payment loans directly eligible households pursuant to Section 7572, or to cooperatives, pursuant to Section 7576.

(2) In the form of payment(s), or on behalf of, eligible households in order to reduce the mortgage interest costs of the households, pursuant to Section 7578.

(b) Before providing mortgage assistance under (a), eligible sponsors may use the funds for certain development costs pursuant to Article 6.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

§ 7562. Amount and Terms of Mortgage Assistance.

(a) The Department shall ensure that not less than 75 percent or more than 85 percent of the Fund is used for mortgage assistance to eligible households. However, the Department may adopt different allocation percentages if, 12 months after issuance of a NOFA, the lack of eligible applications for either technical assistance or mortgage assistance would result in unused funds.

(b) The maximum amount for mortgage assistance for any one project shall not exceed the lesser of $300,000 or the projected mortgage assistance from the Fund necessary to ensure that eligible households participating in a project pay no more than 30% of their gross monthly income for monthly housing costs.

(c) Mortgage assistance for any one eligible household shall not exceed $15,000.

(d) The grantee shall provide mortgage assistance directly to or on behalf of eligible households in the form of deferred payment loans or interest subsidies within two years from the effective date of the Mortgage Assistance Standard Agreement.

(e) The Director may increase the limit on mortgage assistance for an eligible household and extend the two-year term if the Department determines that such increase or extension is necessary to avoid special hardship for the eligible household or to ensure the economic feasibility of the project.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

HISTORY

1. Amendment of subsection (e) filed 11-1-2004; operative 12-1-2004 (Register 2004, No. 45).

§ 7564. Mortgage Assistance Standard Agreement.

(a) A grantee under this Article shall execute a Mortgage Assistance Standard Agreement (MASA) with the Department.

(b) The MASA shall contain the following terms and conditions:

(1) Where funds committed under the MASA are to be used for development assistance pursuant to Article 6 prior to allocation as mortgage assistance to eligible households, the MASA shall contain the terms and conditions set forth in Section 7584.

(2) The grantee shall indicate the estimated income levels of the households that will receive mortgage assistance and such information shall be consistent with the information provided in the approved application, pursuant to Section 7542(c)(3).

(3) Prior to fund disbursement to eligible households, the grantee shall identify each eligible household which will occupy an assisted unit and the amount of mortgage assistance funds for each household.

(4) On or before the sale or conveyance of a newly constructed assisted unit to an eligible household, or on or before the Department's disbursement of funds for an assisted unit to be rehabilitated, the grantee shall ensure that the eligible household which will own and/or occupy the assisted unit executes the Deferred Payment Loan agreement and related documents pursuant to Article 5.

(5) Conditions for the disbursement of mortgage assistance funds to, or on behalf of, eligible households, including the allocation to eligible households of funds which have been used for development assistance shall be specified in the MASA.

(6) For the duration of the MASA, the grantee shall not sell or convey the project, or any portion thereof or interest therein, except as specifically provided in the Agreement.

(7) In the event of a breach of any of its conditions or covenants by the grantee or its successors in interest, the Department shall have the option to enforce the Agreement by any proceeding at law or in equity. The Department may, at its option, require the grantee or its successor in interest to repay immediately to the State the total amount of the loan then due with simple interest at 10% per annum.

(8) A requirement that the grantee submit a performance report to the Department for each stage of the project. Each report shall describe the progress of the project, and shall include the estimated time to completion and a detailed itemized breakdown of grant and other expenditures. The Department shall have the right, without charges or royalty, to publish and distribute all reports, data, memoranda, bulletins or manuals developed or written by the grantee or its offices, employees or agents in its implementation of the project.

(9) A provision that all books, records, documents and files of the grantee which are maintained for the project shall be available upon notice for inspection by the Department and its representatives.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50696 and 50697.5, Health and Safety Code.

Article 5. Deferred Payment Loans and Other Forms of Mortgage Assistance

§ 7570. Household Eligibility and Amount of Loans.

(a) Eligibility for participation with a commitment for mortgage assistance is limited to low-income households. This eligibility shall be determined at the time the sponsor gives final approval for a household's participation in the program, or on approval of permanent financing, whichever is earlier.

(b) For new construction, the maximum deferred payment loan which an eligible household may receive shall be determined as follows:

(1) Determine the amount of total financing required by subtracting from the sales price any downpayment or subsidies other than from the Department;

(2) Calculate 30% of the eligible household's gross monthly income as established at the time permanent financing is approved. From this amount, subtract property taxes, insurance, and utilities and, if required, mortgage insurance and homeowner association fees, to determine the net income available for mortgage payment;

(3) Using the interest rate and term of the first mortgage, calculate the mortgage that the net income in (2) will amortize.

(4) Subtract the amount calculated in (3) from the fist mortgage calculated in (1). This amount, if positive, is the allowable mortgage assistance, up to a maximum of $15,000, for the eligible household.

(c) An eligible household may receive a deferred amount loan for the rehabilitation of an assisted unit subject to the following conditions:

(1) The after-rehabilitation loan-to-value ratio, including the Department's loan, shall not exceed 95 percent.

(2) The proceeds of the deferred payment loan shall only finance rehabilitation costs directly related to compliance with local code rehabilitation standards.

(3) The amount of the deferred payment loan shall not exceed the lesser of the following:

(A) $15,000 or

(B) The amount needed to finance the direct cost of the approved rehabilitation work necessary to comply with rehabilitation standards.

(4) Priority shall be given to eligible households spending 30 percent or more of their gross monthly income on housing costs. Households spending less than 25 percent of their gross monthly income for housing costs shall provide evidence that necessary financing cannot be obtained from other sources. "Gross monthly income" shall be established at the time the sponsor gives final approval for a household's participation in the program.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

§ 7572. Terms and Conditions of Deferred Payment Loans to Households.

(a) An eligible household receiving a loan pursuant to this Article shall enter into a Deferred Payment Loan Agreement (DPLA) with the Department. The term of the DPLA shall not exceed 20 years.

(b) The DPLA shall contain the following terms and conditions:

(1) The eligible household shall execute a Promissory Note containing the terms set forth in subdivisions (b)(2), (b)(3) and (b)(4) of this section and a Deed of Trust. The Deed of Trust shall be sufficient for recordation and sufficient to secure the obligations of the Promissory Note. The DPLA shall provide for the order of recordation of the Deed of Trust and

for its priority with respect to other liens and encumbrances recorded against the assisted unit.

(2) The DPLA shall include a provision that the agreement will terminate and the eligible household will be required to repay the outstanding mortgage assistance and accrued interest if the household ceases to occupy the assisted unit as its principal residence, other than as the result of a sale, transfer, or conveyance pursuant to Section 7574.

(3) A Deferred Payment Loan shall bear simple interest at seven (7) percent per year for the first ten years of the loan to any one eligible household. Repayment of principal and payment of interest shall be deferred until sale or conveyance of the assisted unit pursuant to Section 7574.

(4) The loan principal and accrued interest shall be forgiven at 10 percent per year of the total outstanding amount beginning with the 11th year, with total forgiveness of both interest and principal after 20 years provided that an eligible household remains in compliance with the DPLA.

NOTE: Authority cited: Section 50697(d), the Health and Safety Code. Reference: Sections 50696 and 50697(d), Health and Safety Code.

§ 7574. Resale and Loan Assumption.

(a) The owner of an assisted unit shall notify the Department prior to the sale, transfer or conveyance of the assisted unit or any interest therein.

(b) The sale, transfer, or conveyance of an assisted unit or interest therein is subject to the following conditions:

(1) If the sale or transfer is to a low-income household, the purchaser may assume the deferred payment loan upon completion of terms and conditions set forth in Sections 7572 and 7574(c).

(2) If the sale, transfer, or conveyance is not to a low-income household, the deferred payment loan and accrued interest shall be due and payable upon the sale, transfer, or conveyance pursuant to Section 7572.

(3) If, at time of resale, the market value of the housing unit is less than the sum of the outstanding balances on permitted mortgages and permitted liens, plus the value of sweat equity, then the amount of mortgage assistance due in repayment, or available for assumption, shall be reduced by the difference between the market value of the housing unit and said sum. The Department shall establish a value for the sweat equity based on information submitted by the grantee and shall determine the fair market value at the time of the proposed resale.

(c) A low-income household seeking to assume the deferred payment loan shall:

(1) Apply to the Department on an approved form;

(2) Provide the Department with complete and accurate information as to income and estimated housing costs; and

(3) Execute a new Deferred Payment Loan Agreement for the principal balance remaining on the loan.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

§ 7576. Terms and Conditions of Deferred Payment Loans for Cooperatives or Rental Sponsors.

(a) Individual households occupying assisted units in cooperatives or in rental housing developments shall not be entitled to Deferred Payment Loans. Such loans may be made to cooperatives or rental sponsors for the benefit of eligible households as follows:

(1) The loan shall have a term of twenty years and shall bear simple interest at seven percent (7%) per annum, with payments of principal and interest to be deferred except where repayment is required pursuant to this Section and Section 7574;

(2) The cooperative or rental sponsor agrees to execute a Promissory Note evidencing the loan and a Deed of Trust on the property securing the Note. The Deed of Trust shall be recorded as a lien against the property;

(3) The proceeds of the loan shall be utilized to reduce the housing costs of eligible households in assisted units in the cooperative or rental housing development, subject to the limits and requirements set forth in Section 7570;

(b) The cooperative or rental sponsor shall enter into a regulatory agreement with the Department that includes but is not limited to, the following provisions:

(1) The type and number of assisted units to be occupied by eligible households during the term of the loan;

(2) The manner in which the loan shall result in reduced housing costs or rents for eligible households and long-term rights to occupancy;

(3) The cooperative or rental sponsor shall not sell, transfer, convey, or encumber its interest or any portion thereof in the property without the prior written approval of the Department;

(4) The term of the regulatory agreement shall not be less than 20 years; but shall not exceed 20 years from the date of completion of construction or rehabilitation.

(5) The Deferred Payment Loan and all accrued interest thereon shall be forgiven twenty years after the date of execution of the regulatory agreement provided that the cooperative or rental sponsor has substantially complied with the provisions thereof.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Sections 50696 and 50697(d), Health and Safety Code.

§ 7578. Mortgage Subsidy Assistance.

(a) In lieu of assistance provided to eligible households through deferred payment loans, sponsors may propose, in their applications for funding, a method for providing assistance to eligible households to reduce their monthly mortgage interest costs. The Department may accept or reject the proposal, or require the sponsor to amend the proposal.

(b) The Department will use the following criteria in evaluating the proposal for acceptance, rejection, or modification:

(1) The capability of the Department, sponsor, lender or other party to administer and monitor the payments;

(2) The extent to which the proposed method will maximize the benefits of program funds for eligible households;

(3) The extent to which the proposal will encourage resale of the assisted units to low-income households; and

(4) The adequacy of proposed security to protect the program funds and ensure compliance with program requirements.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

Article 6. Development Assistance

§ 7580. Development Assistance Under the Mortgage Assistance Standard Agreement.

A grantee may apply for funds awarded under Article 4 for payment of approved development costs pursuant to this Article and applicable provisions of the MASA. For each project, the amount of development assistance shall not exceed the amount of mortgage assistance committed pursuant to Article 4.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

§ 7582. Eligible Uses of Funds.

Development assistance may be used for costs incurred in connection with self-help construction including the following.

(a) The cost of acquiring or refinancing the property;

(b) The cost of site preparation, demolition, and clearing;

(c) Architectural, engineering, legal, accounting, consulting, and other fees in connection with the planning, execution, and financing of the project;

(d) The cost of necessary studies, surveys, plans and permits;

(e) The cost of insurance, interest and financing, taxes and assessments and carrying costs incurred during self-help construction;

(f) Onsite construction costs of labor and material directly for self-help construction;

(g) The cost of offsite improvements, including streets, sewers, and utilities.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code.

§ 7584. Terms and Conditions of Development Assistance.

(a) As a condition of a commitment of development assistance funds, the following terms and conditions shall be incorporated into the MASA:

(1) The amount, timing and manner of disbursement of development assistance funds by the Department;

(2) A description and allocation of eligible costs to be paid by development assistance funds;

(3) The timing of and manner by which the development assistance shall be provided to eligible households or cooperatives as mortgage assistance. The grantee shall be required to complete the project and provide mortgage assistance to eligible households within two years of the date of commitment of the development assistance; and

(4) Remedies of the Department in the event that the grantee breaches, defaults or violates the development assistance provisions of the MASA.

(5) The order of recordation and the priority to be accorded the Deed of Trust referred to in subdivision (b) below.

(b) Development assistance for the project shall be provided in the form of a loan evidenced by a note in the amount of the approved development assistance and secured by a Deed of Trust in favor of the Department which shall be recorded as a lien against the property.

(c) The note shall bear interest at ten percent (10%) per annum which interest shall be forgiven upon grantee's performance of the development assistance as specified in the MASA. Principal of the development assistance note shall be reduced in increments, and parcels released from the lien of the development assistance Deed of Trust, when mortgage assistance is provided to eligible households in accordance with the MASA.

NOTE: Authority cited: Section 50697(d), Health and Safety Code. Reference: Section 50696, Health and Safety Code. 7670 Purpose and Scope.

Subchapter 7. Office of Migrant Services

Article 1. General

§ 7600. Authority and Purpose.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

HISTORY

1. New Subchapter 7 (sections 7600–7665, not consecutive) filed 6–3–80; designated effective 1–1–81 (Register 80, No. 22).
2. Amendment filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).
3. Repealer filed 11–2–88; operative 12–2–88 (Register 88, No. 46).

§ 7601. Federal Law and Regulations.

(a) This subchapter shall be interpreted to be consistent with all applicable federal law and regulations and, in the event of conflict, federal law or regulations will prevail.

(b) The Department of Housing and Community Development and its contractors and subcontractors shall comply with all state and federal civil rights laws and regulations and shall not discriminate based on race, color, sex, creed, religion, national origin, age, or any physical handicaps.

(c) Any information, documents or sources obtained by a contractor or the Department from resident shall remain confidential, and shall be released only pursuant to the requirements of the Information Practices Act of 1977 (Government Code Section1798 and following) and other applicable state and federal law.

(d) The Department shall review and approve the form of all notices, applications, and other documents required by these regulations, before they are provided to residents.

(e) The Department shall designate a period, of 180 days each calendar year, unless otherwise extended to or reduced by written agreement between the Department and the contractor, during which the housing center(s) shall be open to migratory agricultural workers and their families for occupancy, which period will be referred to as the on–season. The remaining period of time during each calendar year shall be referred to as the off–season.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7602. Definitions.

(a) "Agricultural employment" means work on either a farm, ranch or orchard, or the processing of agricultural products.

(b) "Applicant" means an individual who signs an application for admission to a migrant housing center.

(c) "Contractor" means a housing authority, school district, health agency or other appropriate local public or private nonprofit agency and its agents and other appropriate local public or private nonprofit agency and its agents and employees which has contracted with the Department to operate and maintain and provide services for one or more migrant centers pursuant to Subchapter 8.5 of Part 2 of Division 31 of the Health and Safety Code, commencing with Section 50710.

(d) "Department" means the Department of Housing and Community Development, Office of Migrant Services.

(e) "Earned income" means income received as payment for work.

(f) "Household" means immediate family members who reside, or who have made application to reside together, as a single family at a migrant center.

(g) "Immediate family" means a migrant center resident and his or her parents, children and spouse, or any other related dependents or persons who regularly live with the family and whose income(s) and resources are available for use in meeting the living expense of the group. In addition to sons and daughters of a resident, "children" shall include minors who are financially dependent on a resident, whether or not they are related to the resident. "Spouse" shall include a person who acts as the husband or wife of the resident, whether or not they are legally married.

(h) "Migrant center" and "migrant housing center" mean a housing center administered by the Department and operated by a contractor for the purpose of providing housing for migratory agricultural workers pursuant to Health and Safety Code section 50710 and shall include all housing units, common areas and structures, equipment and furniture within a housing center, excepting those facilities owned exclusively by a contractor or other interests and not meant for the use of migratory agricultural workers.

(i) "Migratory agricultural worker" means an individual who:

(1) has the employment status of one of the following:

(A) during the current or preceding calendar year, derived at least 50 percent of his/her total annual household earned income from agricultural employment, or

(B) can produce current evidence of a current job offer in agricultural employment; and

(2) performs, has performed, or will perform such agricultural labor during the current or preceding calendar year under conditions which require roundtrip travel exceeding 100 miles per day such that he/she was unable to return to his/her chosen place of residence within the same day of labor; and

(3) has resided together with his/her immediate family outside a 50 mile radius of the migrant center for at least 3 months out of the preceding 6 month period.

(j) "Operating costs" means the amount of the total expenditures necessary to pay for the costs of operating a migrant family housing center in compliance with Sections 50710 through 50713 of the Health and Safety Code and Sections 7601 through 7665 of Title 25 of the California Code of Regulations. Costs shall include permanent salaries/wages, temporary salaries/wages, and personnel benefits; center office supplies, household supplies, communication, travel and gas/oil; minor equipment and repair/maintenance; purchases under $150.00; major equipment purchase and repair/maintenance, equipment rental, electricity, and gas; garbage, trash, sewer, and water; other costs; electric/plumbing/paint/solar

supplies and services; lumber and materials; grounds maintenance; rehabilitation and repairs; debt service; replacement reserves; administrative support services, travel and auditing expenses.

(k) "Resident" means an individual migratory agricultural worker who signs a lease to reside in a migrant center.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Sections 50710 and 50712.5, Health and Safety Code.

HISTORY

1. Amendment filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment filed 11–2–88; operative 12–2–88 (Register 88, No. 46).
3. Editorial correction of subsection (d) (Register 95, No. 30).
4. Amendment of subsections (g) and (j) filed 2–22–96; operative 2–22–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
5. Change without regulatory effect amending subsections (g) and (j) filed 7–31–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).
6. Amendment of subsections (g), (i)(1)(A) and (j) filed 3–17–98; operative 3–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

Article 2. Admissions

§ 7610. Eligibility for Admission.

An applicant and his/her immediate family are eligible for admission to a migrant center if they meet all of the following criteria:

(a) The applicant or applicant's spouse is a migratory agricultural worker. In determining status as a migratory agricultural worker, as defined in Section 7602, the combined earned income of all members of the applicant's household shall be considered, and as long as 50% of the household's combined earned income is derived from agricultural employment, any individual household members may engage in non–agricultural employment.

Income from employment at a migrant center shall be included as agricultural employment in the total annual household income when evaluating compliance with the above 50% requirement.

(b) There is more than one person in the applicant's household and all household members are members of the applicant's immediate family.

(c) The applicant and his/her household conforms to the occupancy standards set out in Section 7612.

(d) The contractor may determine that an applicant is not eligible for admission if, on the basis of substantial, factual evidence of that person's prior actions there is good cause to believe that the applicant or any member of his/her household will repeatedly fail to pay rent, will create a substantial threat to the health and safety of other residents, or will repeatedly breach material requirements of the lease. Unsubstantiated oral statements will not be deemed substantial factual evidence.

(e) The above eligibility criteria shall be exclusive and no other factors shall be considered in determining eligibility of applicants.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of subsections (a) and (d) filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of subsection (a) filed 2–22–96; operative 2–22–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
3. Change without regulatory effect amending subsection (a) filed 7–31–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).
4. Amendment of subsection (a) filed 3–17–98; operative 3–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

§ 7611. Admission Priorities.

(a) Applicants shall apply for admission on a first–come, first–serve basis, on the day that each migrant center opens for housing registration. An alternative method permitting preferential admission for residents of the migrant center's previous season may be used if approved by the Department.

(b) Applicants who have previous or current agricultural employment shall be given priority for occupancy of units during the opening day each season over those who have no history of current or past agricultural employment, but have offers of employment.

(c) If more eligible applicants apply than there are available units, the contractor shall maintain a waiting list with applicants listed in order of date and time of application. A priority number shall be issued upon application and shall be noted on the application form. When a housing unit becomes vacant, the contractor shall offer the unit to the first eligible appropriate candidate on the list. If after a good faith effort the contractor is unable to contact the first applicant on the list, the contractor may offer the unit to the next eligible appropriate candidate on the list, until the list is exhausted. If an applicant has not checked in with the contractor in the prior 24 hours, his/her name may be dropped from the waiting list.

(d) The foregoing priority shall be followed without regard to race, creed, religion, sex, color, or national origin or any other factor precluded by law.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment filed 11–2–88; operative 12–2–88 (Register 88, No. 46).

§ 7612. Occupancy Standards.

(a) Each migrant center shall remain open 180 days each calendar year. The period of time during which a migrant center is open may be extended or reduced pursuant to written agreement between the Department and the contractor responsible for the operation and maintenance of that migrant housing center.

(b) A migratory agricultural worker and his/her immediate family may not occupy more than two housing units at any one time.

(c) To avoid overcrowding and prevent waste of space, dwellings are to be assigned in accordance with the occupancy standards set forth as follows:

Number of Bedrooms	*Maximum number of Persons*
1	4
2	7
3	10
4	13

These maximum standards may be waived by the contractor when appropriate in order to make temporary use of available vacant units or to house families in urgent need.

If a resident is living in a unit which is too small for his/her household according to these occupancy standards, the contractor may transfer resident to the next available unit of appropriate size or may provide resident with an available additional unit. In addition, contractor may require a resident who is living in a unit which is too large for his/her household to exchange units with a resident who is living in a unit which is too small.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7613. Application and Admission Requirements.

(a) The Application for Admission constitutes the basic record of each migratory agricultural worker and his/her household who has applied for admission to a migrant housing center. Each applicant shall provide all information requested in the Application for Admission, sign the application, and attest to the accuracy of the data provided.

(b) Each application for Admission shall reflect the date and time of application by the applicant.

(c) Applications for Admission shall be available in English and the language spoken by a majority of applicants. The contractor shall provide assistance to all applicants in filling out the application.

(d) The Application for Admission and all other materials relating to the eligibility of the applicant and his/her household, including applicants who are found ineligible, shall be kept in an active file.

(e) The Application for Admission shall call only for information necessary to determine the eligibility of the applicant and his/her household as defined in Section 7610. Such information shall include the size and composition of the applicant's household.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7614. Verification.

(a) The contractor shall verify information provided by the applicant.

(b) The contractor shall accept a document submitted by an applicant for verification if it provides credible evidence of applicant's eligibility. The department may determine which types of documents do not provide credible evidence. The following are examples of acceptable documents but other forms of documentation offered by the applicant may be accepted:

(1) Income tax reports (e.g. W–2 forms) or other statements from employers or other income sources.

(2) Signed employer verification form,

(3) Migrant transfer record,

(4) Unemployment insurance benefits reports,

(5) Vehicle license number,

(6) Driver license.

(7) Signed current letter from employer or potential employer verifying current job offer for an applicant with no prior history of agricultural employment.

(c) Information obtained by telephone or personal interview may be used for admission, provided that no other documentation can be provided by applicant. A memorandum shall be placed in the verification records summarizing the information, stating the source and date of contact, and shall be signed and dated by the contractor's agent or employee who prepared the memorandum.

(d) In order to determine whether an applicant is ineligible for admission on the grounds stated in Section 7610 (d), the contractor may rely upon, for example, written records of a migrant center or other housing management, statements of a migrant center manager or other housing manager or owner or a chairperson of a resident council, and written records of administrative and court hearings in cases where action was brought against the applicant regarding conduct in a migrant center or other housing. Only credible information regarding the applicant's prior actions may be taken into account.

(e) Documents and other verification information shall be required only for the purpose of determining eligibility under the criteria in Section 7610 and shall not be required for any other purpose.

(f) Verification information shall be reviewed and evaluated as received for completeness, accuracy, and conclusiveness. Where the information received, at the time of application, is not adequate to verify the applicant's eligibility, the contractor may exercise discretion and either notify applicant that he/she is ineligible or permit applicant an additional 24 hours to produce the necessary documents. If during the verification process it becomes evident that for one or more reasons an applicant is ineligible, the investigation is to be discontinued and the applicant notified of his/her ineligibility and the reasons therefor, and of his/her right to a hearing as provided in Section 7615.

(g) If a determination is made that an applicant is not eligible the reasons for that finding and a summary of the information upon which that finding is based shall be written on the application form and signed by the staff person who made the determination.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).
2. New subsection (b)(7) filed 11–2–88; operative 12–2–88 (Register 88, No. 46).

§ 7615. Notification to Applicants.

(a) Each applicant shall be notified as promptly as possible regarding his/her eligibility status. If determined to be ineligible for admission, the applicant is to be informed in writing of the determination, the reasons for the determination, and of his/her right to request a hearing pursuant to subsection (b) of this section. For each such case, a record shall be maintained, including a notation of the circumstances involved, final action taken, and the dates. A form for requesting a hearing shall be in English and in any other language spoken by a majority of applicants.

(b) An applicant must request a hearing within 24 hours after written notification of ineligibility is personally delivered, or his/her rights to a hearing shall be deemed to be waived.

(c) Except where an applicant is refused admission due to lack of appropriately– sized housing units, contractor shall hold an appropriate unit vacant until the time to request a hearing has passed or, if a hearing is timely requested, until after a hearing is conducted.

(d) A hearing requested pursuant to subdivision (b) shall be held promptly, and shall be conducted in the primary language of the applicant or with a translator who speaks such language. Applicant shall not be required to miss work in order to appear at the hearing. The hearing requested pursuant to this section shall be conducted by a supervisor of the person who made the determination that the applicant was ineligible. Such decision shall be in writing and set forth the reasons and findings for the decision.

(e) Each applicant determined to be eligible for admission shall be housed promptly. The date that housing units are assigned may be designated by the Department.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7616. Execution and Amendment of Dwelling Lease.

(a) At the time of admission, the applicant accepted for admission shall sign the lease. The lease shall comply with Section 7623 and shall be prepared in triplicate. One copy shall be given to the applicant, one copy to the Contractor, and the original shall be filed in the permanent record folder established for the applicant at the center office.

(b) If, through any cause, the signer of the lease ceases to be a member of the resident household, a new lease shall be signed by the family member qualifying as head of the household, provided the household remains eligible for continued occupancy.

(c) If a resident household transfers to a different migrant center a new lease shall be executed to reflect the new dwelling.

(d) If, at any time during the term of the lease, any other change in the resident's status results in the need to change or amend any provisions of the lease, the lease should be amended to reflect the changes.

(e) All lease revisions are to be dated and signed by the resident.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of subsection (a) filed 11–2–88; operative 12–2–88 (Register 88, No. 46).

Article 3. Lease

§ 7620. Local Rules and Regulations.

In addition to the requirements in the lease, each contractor may adopt reasonable rules and regulations necessary for the proper operation of each migrant housing center and consistent with this subchapter. Such

rules and regulations shall be submitted to the resident council for comment and to the Department for approval prior to their becoming effective. Such rules and regulations shall be given to each applicant at the time the lease is signed.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No.9).

§ 7621. Rents.

Rents shall be charged according to a schedule of rents established by the Department. Rents shall not be adjusted except in accordance with Section 7650 or 7653.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
3. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

§ 7622. Replacement Charges.

The charges to residents for damages caused to the migrant center property shall be made in accordance with a schedule of replacement costs which shall be adopted by each contractor and posted in the management office of each migrant center, and shown to applicant at the time the lease is signed.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7623. Lease.

Each contractor shall use the following lease when leasing a unit in a migrant housing center. The lease shall be in English and a copy provided in the language spoken by a majority of applicants.

HOUSING AUTHORITY
BOARD OF SUPERVISORS
BOARD OF DIRECTORS
OF THE_____OF_____
MIGRANT CENTER_____UNIT NO._____
OCCUPANCY DATE_____BEDROOM SIZE_____

The_____of the_____of_____(Management), relying upon statements in the resident's application for housing, agrees to lease to _____(Resident), the residence described above, under the terms and conditions stated in this lease. The following people will occupy the residence:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

1. TERM OF LEASE

The term of this lease shall be one month. The lease shall be automatically renewed for successive terms of one month unless terminated in accordance with Paragraph 6 of this lease.

2. OCCUPANCY

Resident, and members of Resident's household, as listed in Resident's application for housing, shall have the exclusive right to use and occupy the residence. Resident shall not sublet nor assign this lease. Resident agrees to comply with the transfer procedures in the Resident's Handbook for Migrant Centers.

3. RENT

The daily rent for these premises is_____. The rent shall be paid___ weekly, _____ bi-weekly, _____monthly (check one) in advance on the__day of each___.

4. SECURITY DEPOSITS

Resident agrees to pay $__as a security deposit upon the terms and conditions contained in the Resident's Handbook for Migrant Centers. Resident agrees to pay $25.00 as an additional security deposit for the first two electronic gate security cards assigned to a household at Centers that have electronic gates, and $25 for each additional card after the first two. These security deposits shall be returned to the Resident upon the conditions contained in the Resident's Handbook for Migrant Centers.

5. UTILITIES

Management shall pay for the cost of all utilities, except telephone.

6. TERMINATION OF LEASE

(a) Resident may terminate this lease at any time. Rent is only paid for the period Resident actually occupied the housing unit. Any unused rent shall be returned to Resident according to the termination terms and conditions contained in the Resident's Handbook for Migrant Centers.

(b) Management may terminate this lease only for good cause. Management shall terminate this lease in accordance with the provisions contained in the Resident's Handbook for Migrant Centers.

7. RESIDENT'S HANDBOOK FOR MIGRANT CENTERS

The provisions contained in the Resident's Handbook for Migrant Centers shall be a part of this lease. Resident and Management agree to be bound by the terms of the Handbook.

DATED: _____ _____
RESIDENT

DATED: _____
MANAGEMENT

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of lease form heading and paragraph 4. filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
3. Amendments filed and operative 2-26-96 invalidated by *Martinez v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS 01752 (December 19, 1996).
4. Amendment filed 3-27-97 as an emergency; operative 3-27-97 (Register 97, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-25-97 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 3-27-97 order by operation of Government Code section 11346.1(f) (Register 97, No. 31). Emergency amendment filed and operative 3-27-97 invalidated by *Orejel v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS01752 (May 28, 1997).
6. Change without regulatory effect repealing amendments filed and operative 2-26-96 filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).
7. Editorial correction amending section and HISTORY 5 and adding HISTORY 6 (Register 98, No. 12).
8. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

§ 7624. Resident's Handbook.

Each contractor shall give the Resident a copy of the following Resident's Handbook for Migrant Housing Centers at the time of the execution of the lease. This Handbook shall be in English and the language spoken by a majority of applicants. The provisions of this Handbook are binding on all Residents, contractors, and the Department.

RESIDENT'S HANDBOOK FOR MIGRANT HOUSING CENTERS

Welcome to the Migrant Housing Center. This Handbook contains important information concerning the rights and responsibilities of residents and management of the migrant center. Please read it carefully and keep it with you while you are living at the center.

RENT

Rent shall be paid either monthly, bi-weekly, or weekly, depending on your agreement with the manager.

The department shall establish a schedule of rents from a statewide base for 1998 of seven dollars and fifty cents ($7.50) per day for a two-bedroom dwelling. An additional fifty cents ($.50) per day shall be charged for a three-bedroom unit, and an additional one dollar ($1.00) per day shall be charged for a four-bedroom or larger unit. In any year, any household which occupies more than one two-bedroom unit shall pay one dollar ($1.00) per day for the second unit.

The base rent shall be adjusted, if necessary, at the beginning of each state fiscal year to an amount calculated by the Department considering total statewide operating cost throughout the state and total state and other funds available for all centers and after an opportunity for resident comment. There may be additional mid-season adjustments in rent after 30 days written notice. The exact rules for rent adjustments are in the Office of Migrant Services Housing Center Regulations, sections 7650 and 7653.

SECURITY DEPOSIT

The security deposit will be no less than $100.00 and no more than $125.00. This deposit may only be used by management for unpaid rent, for any cost to clean the unit beyond normal wear and tear, and for the cost to repair damages beyond normal wear and tear caused by you or your guests. The security deposit may not be used for charges caused by normal wear and tear.

An additional security deposit of $25.00 is required for the first two electronic gate security cards issued to you, and for each additional card thereafter, if your center has an electronic security gate. In the event an electronic gate security card is lost or not returned, you will forfeit this deposit. An additional deposit will be required before a new electronic gate security card is issued to you. If an electronic gate security card is returned damaged, you must pay actual replacement cost of the gate card.

Management shall make arrangements with you to pay these deposits at a later time if you cannot afford to pay the full amount at the time you are admitted to the center.

The rules for getting back your deposit at the end of the residency are as follows:

If you give management at least three days notice that you are leaving, management shall return the deposit to you on the day you move out. If management keeps all or part of deposit, they must provide a written statement explaining why those amounts were withheld.

If you do not give management at least three days notice that you are leaving, management will make permissible deductions and send the deposit to your forwarding address within two weeks. If the management does not have a forwarding address, management will hold your deposit for six months. After six months your deposit is forfeited. If management must hold your deposit, it will not entitle you to preference for admission the next year.

UTILITIES

All utilities (excluding telephone service), are to be paid by management at no additional charge to you.

TRANSFER

If you are living in a housing unit which is too small for your family, according to the occupancy standards set forth in the Office of Migrant Services Housing Center Regulations, management may transfer your family to the next available appropriate unit, or may provide your family with an additional available housing unit.

In addition, if you are living in a unit which is too large for your family, management may require you to exchange units with a family which is living in a unit which is too small. If there is such an exchange, the family in the larger unit must receive at least seven (7) days written notice from management.

GUESTS

You may have guests (including overnight), but you must get permission from management if guests will be staying more than 3 days.

MANAGEMENT RIGHTS AND OBLIGATIONS

(a) All center personnel are answerable to management.

(b) Management is authorized to provide free housing and utilities to center personnel who received or who will receive said housing benefits as a condition of their employment.

(c) During the off-season management is authorized to enter into sub-lease agreements with federal, state, and local public entities for use of the common facilities. Such facilities shall be available for use by center residents during the on-season.

(d) Management is to keep the center in a decent, safe, and sanitary condition. Repairs are to be made promptly.

(e) Management shall repair and maintain all electrical, plumbing, sanitary, heating, ventilating, and cooling equipment, and appliances supplied by the Department in accordance with contractor's budget.

(f) Management and residents shall cooperate on all matters pertaining to energy conservation.

(g) Management is authorized to reduce or stop charging rent on housing units which develop major defects that make the unit a threat to the health or safety of the resident and his/her family. However, management shall repair the unit or move the residents to another unit as soon as possible.

(h) The Department shall provide funds to contractor for the purpose of relocating residents displaced as a result of rehabilitation activities of management. Replacement housing shall be provided without any additional cost to resident and his/her family.

RESIDENT'S RIGHTS AND OBLIGATIONS

You, as a resident, agree to:

(a) Use your residence only as a private dwelling unit for you and your family;

(b) Keep your yard in a clean and safe condition;

(c) Dispose of rubbish properly in a safe and sanitary manner;

(d) Keep your family or guests from damaging or removing the property of the Migrant Center;

(e) Pay for damages caused by those under your control, according to a schedule of maintenance and repair charges;

(f) Keep from disturbing the other residents;

(g) Keep no pets on the premises;

(h) Park vehicles only at areas designated for this purpose. Vehicles shall not be abandoned, repaired or maintained within the center; however, routine servicing is permitted if it does not involve toxic substances (including, but not limited to, oil and brake fluids or car batteries) or does not create a danger for the residents, and if it is consistent with local rules and regulations;

(i) Make no major additions or changes to your residence, its equipment, or furniture provided by management.

(j) Tell the management if you and your family will be away for more than three (3) days;

(k) Leave your residence clean and in good condition when you vacate the premises;

(l) Obey the rules and policies governing the Migrant Centers in existence when you moved in;

(m) Report damages and needed repairs to management. If management does not repair your unit in a reasonable time, the request should be submitted in writing. In the event management does not respond to your written request within a reasonable time, you may do such repairs up to two times each year, each time spending an amount equal to one (1) month's rent and deduct this amount from your rent payments;

(n) If there are major defects in the housing unit that make the unit a threat to your health or safety you may ask for immediate repairs or to be relocated to another unit. If management does not make repairs or relocate you, within a reasonable time, you may stop paying rent and pay only reasonable rental value for your unit.

(o) You must physically occupy your unit within seven days after being admitted to the center and must continue to physically occupy the unit until you leave the center. If you leave the unit vacant for more than seven days and there are other eligible families waiting for housing, management may lease your unit to another family. Management may, at their discretion, permit you to leave the unit vacant for a longer period of time.

(p) Comply with other rights and obligations agreed upon by management and the Resident Council and approved by the California Department of Housing and Community Development;

(q) You and your guests, upon advance notice to management, may use the common facilities of the Migrant Center for meetings or other lawful activities which do not interfere with other activities or the rights of other residents;

(r) You and your guests have a right to privacy;

(s) Management may not retaliate against you for any lawful action including exercising the rights given you under this handbook and/or the laws of the United States or the State of California.

RULES, REGULATIONS AND POLICIES

You and management both agree to follow the written rules, regulations, laws and policies governing the Migrant Centers. Local management rules and policies may be changed only if residents are given 30 days written notice of changes. The following rules and regulations are to be made available to you in English and in the language spoken by the majority of residents:

(a) Schedule of Rents;

(b) Schedule of Maintenance and Repair Charges;

(c) Occupancy and Eligibility Policies;

(d) Local Management Rules, Regulations and Policies;

(e) Grievance Procedures;

(f) Department of Housing and Community Development, Office of Migrant Services Regulations.

INSPECTION

When you move in, you must be provided with an inventory list detailing the condition of the unit and the equipment provided with the unit. The list is to be signed by both you and the management. If you disagree as to the conditions of the unit or its equipment, you should note this on the list before, or as soon after moving in as possible. Both you and the management are to keep a copy of this inventory. This list will help in determining how much of your security deposit will be returned to you.

ENTRY OF RESIDENCE DURING TENANCY

Management may enter only during reasonable hours with either your permission or that of an adult member of your family. If management reasonable suspects an emergency exists, such as a fire, management may enter at any time.

After giving 24 hours written notice, management may enter your units to inspect, repair, maintain, or show it to others interested in renting the unit after you leave. This notice is not required if you requested such entry.

You shall not unreasonably deny management permission to enter your unit.

TERMINATION OF LEASE

You may end your lease at any time. Rent is only paid for the period you actually occupied the housing unit. And unused rent shall be returned to you. If you give at least three (3) days notice of intent to vacate the center, management must, on the day you move out, return the unused rent to you. If you do not give at least three (3) days notice of intent to leave, management has two (2) weeks within which to send the unused rent to your forwarding address. In the event you do not give management a forwarding address, management shall hold your unused rent for six months and return it to you if you pick it up or provide a forwarding address within six months. After six months, the rent is forfeited. If management must hold your unused rent, it will not entitle you to preference in admission to the housing center the next year.

Management may require you to move out if you have seriously or repeatedly violated important terms of the lease agreement such as not paying rent; serious interference with the rights of other migrant residents; knowingly giving false statements of important facts to management concerning your eligibility for migrant housing; or for other good cause.

In order for management to begin termination of this lease, it must give you or an adult member of your household a written notice stating the reason(s) for termination and notifying you of your right to request a hearing as allowed under the grievance procedure.

If you have not paid your rent, management shall give you a seven (7) day notice to either pay the rent or move out. If your actions cause an immediate threat to the health and safety of the other residents, the management shall give you a reasonable time to move out, but not less than three (3) days.

In all other cases, 14 days notice shall be given to either comply with the terms of the lease or move out.

GRIEVANCE PROCEDURE

If you and management disagree as to the rights and obligations under the lease, including the right of management to terminate your lease, these disagreements will be settled through the complaint and grievance procedure in the regulations of the Office of Migrant Services. You may not use the grievance procedure if management terminates your lease because your actions cause an immediate threat to the health and safety of your neighbors.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of subsection entitled RENT filed 11–2–88; operative 12–2–88 (Register 88, No. 46).
3. Amendment of subsections entitled RENT, SECURITY DEPOSITS and subsection (h) of RESIDENT'S RIGHTS AND RESPONSIBILITIES filed 2–22–96; operative 2–22–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
4. Editorial correction of RENT (Register 96, No. 37).
5. Amendments filed and operative 2–26–96 invalidated by *Martinez v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS 01752 (December 19, 1996).
6. Amendment filed 3–27–97 as an emergency; operative 3–27–97 (Register 97, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–25–97 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 3–27–97 order by operation of Government Code section 11346.1(f) (Register 97, No. 31). Emergency amendment filed and operative 3–27–97 invalidated by *Orejel v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS01752 (May 28, 1997).
8. Change without regulatory effect repealing amendments filed and operative 2–26–96 filed 7–31–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).

9. Editorial correction amending section and HISTORY 7 and adding HISTORY 8 (Register 98, No. 12).

10. Amendment of RENT, SECURITY DEPOSIT AND RESIDENT'S RIGHTS AND OBLIGATIONS (h) filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

Article 4. Complaint and Grievance Procedure

§ 7630. Complaint and Grievance.

All grievances of residents of migrant housing centers shall be resolved in accordance with the procedure set forth in this Article. A grievance is any factual or legal dispute which a resident may have with respect to contractor action or failure to act, in accordance with the lease, contractor policies, these regulations, or law which adversely affect the resident's rights, duties, welfare, or status. Failure to present a grievance shall not bar its use in any judicial proceeding.

Except in cases involving eviction of the resident, a resident may not request a grievance hearing until he/she has taken both of the following actions personally or through the tenant council:

(a) First, the resident must submit a written complaint to contractor. Contractor must respond, in writing, within 10 days after receiving the written complaint.

(b) If the problem has not been resolved after the resident has received contractor's written response or after the time for contractor to respond has passed, the resident must submit a written complaint to the department. The department must respond in writing within 10 days after receiving the written complaint. After the department has responded in writing or after the time to respond has passed, the resident may then request a grievance hearing, if the dispute has not been settled.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7631. Bilingual Procedures.

Grievance hearings, conferences, notices, and summaries pursuant to this Article shall be in English or in the language of the majority of residents. If the resident speaks some other language a translator shall be provided.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7632. Presentation of Grievance.

The resident shall personally present a grievance to the resident's migrant housing center manager or to the contractor's main office. For purposes of this section, grievances shall be accepted by the center manager until 5:00 p.m. The resident shall present the grievance within three (3) working days from receipt of notice in the case of a termination. In a case other than a termination, the resident must have complied with the procedures in Section 7630, and must present the grievance within 3 days after receiving a written response from the department or, if no response is received, within 3 days after the time for the department to respond has passed. The grievance may be presented orally or in writing. The contractor may request that an oral grievance be confirmed in writing by the resident. The contractor and the resident and any representative of either may discuss the grievance informally and attempt to settle the grievance without a hearing.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

2. Editorial correction of section misnumbering (Register 96, No. 37).

§ 7633. Summary of Discussion.

If the contractor and the Resident are unable to settle the grievance informally, the contractor shall send to the resident a written summary of the grievance. The summary shall include:

(a) The contractor's proposed disposition of the grievance;

(b) The specific reasons for the proposed disposition;

(c) The names of the participants and the dates of any meetings held to discuss the grievance; and

(d) The procedure by which the resident may obtain a hearing to review the grievance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7634. Request for Hearing.

If the resident is not satisfied with the contractor's proposed disposition of the grievance contained in the summary, the resident shall submit a written request for a hearing to the contractor's main office or to the resident's migrant housing center manager's office. The resident shall submit the request within three (3) working days after receipt of the summary. The request shall specify the reasons for the grievance, and the action or relief sought.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7635. Selection of Hearing Officer or Panel.

Grievances not resolved informally in accordance with Sections 7630, 7632 and 7633 shall be presented before a hearing officer or hearing panel. A hearing officer or panel shall be selected as follows:

(a) The hearing officer shall be an impartial, disinterested person selected jointly by the resident and the contractor.

(b) In the event they cannot agree, each will pick one member of a hearing panel, and the members so appointed shall select a third member. If the members appointed by the resident and the contractor cannot agree upon a third member, then the third member shall come from a community based organization mutually agreed upon by the contractor and the resident council.

(c) In lieu of the procedure set forth in subparagraphs (a) and (b) of this section, a contractor may provide for the appointment of hearing officer or hearing panel by any method which is approved by the majority of the tenant council.

(d) In the event the hearing officers or members of the hearing panel are not fluent in the language most readily understood and spoken by the resident, the contractor will make a reasonable good faith effort to provide a translator for the benefit of all parties involved.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7636. Scheduling of Hearing.

The hearing officer or panel shall promptly schedule a hearing for a date, time, and place reasonably convenient to the parties and shall notify the parties in writing of the date, time, place, and the procedures governing the hearing. Hearings shall be conducted no more than ten (10) working days after receipt of a request. Resident shall not be required to miss work in order to appear at the hearing.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7637. Due Process Hearing.

At and before the hearing, the resident shall be entitled to:

(a) Examine before the hearing any documents, regulations, and records of the contractor relevant to the hearing. The contractor may not, at the hearing, rely on any document requested by the resident before the hearing, but not made available to the resident. If the resident prevails, the cost of copying such documents shall be paid by the contractor;

(b) Be represented by counsel or other person chosen by the resident as his or her representative;

(c) Request a private or public hearing;

(d) Present evidence and arguments in support of the grievance, controvert evidence relied on by the contractor and confront and cross-examine all witnesses on whose testimony or information the contractor relies.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7638. Non-Appearance.

If either party or his/her representative fails to appear at a scheduled hearing, the hearing officer or panel may decide that the non-appearing party has waived his/her right to a hearing and shall notify the parties of the decision. The hearing may be continued to a later date, but no more than five (5) days, for a good cause.

If the resident does not appear, he can, within five (5) days request that the hearing be re-opened and any decision already made by the hearing officer or panel be stayed. Such request shall be granted if the resident makes a showing of good cause for his non-appearance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7639. Hearing Procedure, Evidence and Transcript.

(a) The hearing officer or panel shall conduct the hearing informally. At the hearing, the resident shall first explain why he or she is entitled to the relief sought in the grievance. Thereafter, the contractor shall sustain the burden of justifying its action or failure to act against which the grievance is directed.

(b) Oral or documentary evidence relevant to the facts and issues raised by the grievance may be received without regard to admissibility under judicial rules of evidence, but with appropriate regard to credibility, authenticity, relevance, and materiality.

(c) Either party may arrange for a transcript of the hearing at the party's own expense. Any other interested person may purchase a copy of the transcript if the resident who requested the grievance so permits. Alternatively, upon the request of the resident, the hearing may be tape-recorded and the tape recording will be the official record of the hearing and available as set forth herein.

(d) Except as otherwise provided by this grievance procedure, or as otherwise provided by agreement of the parties in writing, the hearing procedure, the hearing decision, and enforcement of the decision shall be governed by the California statutes relating to arbitration agreements and awards, Code of Civil Procedure, Section 1280 et seq.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7640. Hearing Decision.

(a) The hearing officer or panel may render a decision without proceeding with the hearing if the hearing officer or panel determines that the issue presented by the grievance has been previously decided in another proceeding.

(b) Except as provided in paragraph (a) above, the hearing officer or panel shall render a decision based solely on the facts presented at the hearing or by a statement of facts agreed to by the parties.

(c) The hearing decision shall be written, shall state the reasons for the decision and shall be sent to the parties within seven (7) working days after the hearing.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7641. Effect of Decision and Right to Trial De Novo.

The decision of the hearing officer or panel shall be binding on the contractor and resident which shall take actions, or refrain from any actions necessary to carry out the decision. Nothing contained in this grievance procedure shall constitute a waiver of the resident's or contractor's right to a trial de novo or judicial review of any court action.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2026082; effective thirtieth day thereafter (Register 82, No. 9).

§ 7642. Eviction Actions.

(a) If the grievance involves a contractor notice of termination of tenancy and if the resident has requested a hearing within the time limits specified above, then the contractor shall not file an unlawful detailer action until:

(1) the hearing officer or panel has upheld the contractor's action to terminate the tenancy or the hearing has been waived by the resident's non-appearance;

(2) the hearing decision has been sent to the resident; and

(3) the contractor has sent to the resident a written notice to vacate the premises, following the decision.

(b) The notice to vacate the premises shall specify that if the resident fails to quit the premises within five (5) days, the contractor will file an unlawful detainer action against the resident in court, and the resident may be required to pay court costs.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7643. File of Decisions.

The contractor shall keep a copy of the hearing decision in the resident's file. The contractor shall also keep a copy of the hearing decision, with names and identifying references deleted, on file for inspection by any prospective complaining resident, his or her representative or a hearing officer or panel. Any hearing decision reversed by a court of law shall be noted as such.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-81; effective thirtieth day thereafter (Register 82, No. 9).

§ 7644. Irregularities; Agreements.

(a) If either the contractor or the resident has failed to proceed in accordance with this grievance procedure, the other party may waive such an irregularity in procedure for good cause shown.

(b) The parties may agree in writing to follow a different procedure in the resolution of a grievance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7645. Resident's Right to Trial De Novo and Judicial Review.

HISTORY

1. Repealer filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7646. Inapplicability of Procedure.

This grievance procedure shall not apply to an eviction or termination of tenancy based upon a resident's creation of maintenance of an immediate threat to the health and safety of other residents or contractor's employees.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

Article 5. Rent Raises

§ 7650. Rent Schedule.

(a) The Department shall establish a schedule of rents, which shall govern the amount of rent paid by residents for occupancy of units in migrant housing centers.

(b) The schedule of rents shall be established from a statewide base for the 1998 on–season of a rent rate of seven dollars and fifty cents per day for a two–bedroom dwelling.

(c) If the Department determines that it is necessary, the Department shall establish a modified base rent for a two–bedroom dwelling unit, which may be as low as four dollars per day. The necessity to modify the base rent shall be determined based on factors which include, but are not limited to, the condition of the units; the funding level appropriated by the Legislature for the purposes of the Department; or the availability of other funds which subsidize the operation of the center. At the request of the Department, the contractor shall provide information necessary for this determination. Decreases in the base rent established pursuant to this subsection shall be rounded to the nearest twenty–five cents.

(d)(1) In order to assess whether a rent adjustment is necessary for the subsequent fiscal year, the Department shall develop a Projected Operating Fiscal Need. The Projected Operating Fiscal Need shall be the difference between the Projected Operating Costs and the Projected Available Operating Funding for the subsequent fiscal year, each of which is determined as follows:

(A) Total Projected Operating Costs for the subsequent fiscal year shall be determined as follows:

(1) The current fiscal year operating budget, with modifications based on cost trends from the two prior fiscal years' actual operating costs, and further adjusted to account for increases or decreases in the total number of units projected to be available for the subsequent fiscal year;

(2) The total amount of deferred rehabilitation and repairs anticipated to be funded during the subsequent fiscal year; and

(3) The total amount estimated to be necessary for an emergency contingency fund, not to exceed 5 percent of the total amounts of subparagraphs (1) and (2).

(B) Total Projected Available Operating Funding for the subsequent fiscal year shall be determined as follows:

(1) The current fiscal year's State General Fund appropriation for operations;

(2) The projected rent revenues and resources available at the end of the current fiscal year which were not allocated in a contract;

(3) The projected rent revenue to be remitted to the Department during the subsequent fiscal year, based upon the current schedule of rents;

(4) Any carry–over funds from Health and Safety Code Section 50710.1 reserves available at the beginning of the current fiscal year; and

(5) Projected additional private, local, State and federal revenues available for the subsequent fiscal year.

(2) If a Projected Operating Fiscal Need exists for the subsequent fiscal year, the Department shall seek funds from appropriate and available sources including, but not limited to, private, local, State and federal revenue sources. If the Department determines that sufficient funds will not be available from all revenue sources in the amount necessary to fully offset the Projected Operating Fiscal Need, the Department shall assess the need to keep all units open for the full duration of the on–season and thereafter may either adjust the schedule of rents in an amount equal to fully fund the Projected Operating Fiscal Need or in a lesser amount if any projected operating costs can be reduced by reducing any component of operating costs or the availability of units.

(3)(A) The Department, through its Contractors, shall notify affected residents by written notice no less than 60 days prior to the effective day of the proposed schedule of rents. In addition, the Department shall instruct its Contractors to concurrently post the notice in a visible place at the migrant center. The residents and public shall have a 20–day comment period after the notice in which to respond to the new proposed schedule of rents. The notice shall inform the residents of their rights to inspect and copy records on file with the Department's Contractor which are related to the request throughout this 20–day comment period. Upon completion of the 20–day comment period without formal challenge, the Department shall cause a 30–day notice to be served on the affected residents of the effective date of the new schedule of rents; however, the new schedule of rents shall not become effective prior to the beginning of the subsequent fiscal year.

(B) If the residents or residents' representative(s) file a notice with the Department opposing the proposed schedule of rents, the Department shall consider all opposing comments and make a formal determination to either adjust the proposed schedule of rents or accept the proposed schedule of rents. Thereafter, the Department shall cause a 30–day notice to be served on the affected residents of the effective date of the new schedule of rents and the amounts thereof.

(4) In addition to the other provisions of this subdivision (d), and after 30 days' written notice, the Department may impose an additional rent rate adjustment increase or decrease during the fiscal year if the amount of the General Fund appropriation for operating costs in the final State Budget is significantly different than that provided in the determination of the Projected Operating Fiscal Need.

(e) When establishing the 1998 on–season base rent, an additional fifty cents ($.50) per day shall be charged for a three–bedroom unit, and an additional one dollar ($1.00) per day shall be charged for a four–bedroom or larger unit. In any year, any household which occupies more than one two–bedroom unit shall pay one dollar ($1.00) per day for the second two–bedroom unit, in accordance with Section 7612 occupancy standards.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment filed 11–2–88; operative 12–2–88 (Register 88, No. 46).
3. Amendment of subsections (b) and (c), amendment and redesignation of subsection (d) as (d)(1), new subsections (d)(1)(A)–(d)(5)(B) and amendment of subsection (e) filed 2–22–96; operative 2–22–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
4. Amendments filed and operative 2–26–96 invalidated by *Martinez v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS 01752 (December 19, 1996).
5. Amendment filed 3–27–97 as an emergency; operative 3–27–97 (Register 97, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–25–97 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to 3–27–97 order by operation of Government Code section 11346.1(f) (Register 97, No. 31). Emergency amendment filed and operative 3–27–97 invalidated by *Orejel v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS01752 (May 28, 1997).
7. Change without regulatory effect repealing amendments filed and operative 2–26–96 filed 7–31–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).
8. Editorial correction amending section and HISTORY 6 and adding HISTORY 7 (Register 98, No. 12).

9. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

§ 7651. Rent Raises.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, no. 9).
2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
3. Repealer filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

§ 7652. Requirements.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Repealer filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

§ 7653. Special Rent Increases.

(a) The Department shall approve a contractor-initiated rent increase of up to $1 per day per unit at a migrant housing center if all of the following conditions are met:

(1) The Contractor provides to the resident council for review and written comment a demonstration of a significant and critical need for the rent increase. Items which may create such a need include health and safety repairs, rehabilitation, maintenance of units, and increase in operating costs, other than personnel or administration. The resident council shall provide comments within 30 days of receipt of demonstration.

(2) After the resident-council provides written comments and at least 30 days prior to a hearing on the proposed rent increase, the contractor provides the residents and the resident council with a written notice, approved by the Department, which sets forth the proposed amount and specific purposes of the increase, and the time and date of the hearing at which the residents may comment on the amount and purposes of the increase. The Department shall approve or disapprove the proposed notice in writing within 30 days of a request for a review from the contractor. The hearing shall be held at the center for which the rent increase is proposed, and the written comments of the resident council shall be made available for review by the residents.

(3) Following the hearing, the contractor provides the Department with the following items:

(A) A written summary of all written and oral comments by residents and by resident council and a resolution from the resident council regarding the rent increase and its purpose;

(B) A detailed justification for the cost and nature of actions which address the items comprising the need for the rent increase;

(C) Any other relevant information the contractor may wish to provide.

(4) The Department provides written approval or disapproval of all or part of the rent increase within 30 days of the receipt of the items required in subsection (a)(3). The Department's approval shall be based on a determination that the need and the costs of activities, which address the items comprising the need, are reasonable and valid.

(5) Upon receipt of Department approval of the increase, the contractor provides at least 30 days written notice to each resident and the resident council of the increase. This provision does not apply if the contractor implements the increase in rent at the beginning of the next season following receipt of Department approval; however, the contractor shall provide written notice of the following to each resident at the time of the execution of the lease:

(1) the amount of rent increase from the previous season; and

(2) the standard used to calculate the increase.

(b) The Department shall approve a resident council initiated rent increase of up to $1.00 per day per unit at a migrant housing center if all of the following conditions are met:

(1) The resident council provides notice to the migrant center residents of the discussion of a special rent increase 15 days prior to the resident council meeting at which the special rent increase will be discussed. The resident council meeting shall be a public hearing, at which residents in attendance shall have the opportunity to vote on the proposed special rent increase.

(2) Following the resident council meeting, the resident council shall provide to the contractor for review and written comment a demonstration of a significant and critical need for the rent increase. Items which may create such a need include health and safety repairs, rehabilitation, maintenance of units, and increase in operating costs, other than personnel or administration. The contractor shall provide the resident council with comments and recommendations within 15 days of receipt of the demonstration.

(3) Within 15 days of the resident council approval of comments and recommendations from the contractor, the contractor provides the Department with the following items:

(A) A written summary of all written and oral comments by the residents and by the resident council, a record of the vote by center residents in attendance at the public hearing, and a resolution from the resident council regarding the rent increase and its purpose;

(B) A detailed justification for the cost and nature of actions which address the items comprising the need for the rent increase;

(C) Any other relevant information the contractor may wish to provide.

(4) The Department provides written approval or disapproval of all or part of the rent increase within 30 days of the receipt of the items required in subsection (b)(3). The Department's approval shall be based on a determination that the need and the costs of activities, which address the items comprising the need, are reasonable and valid. The Department shall consider whether the requirements of this subsection have been met and whether the need and the cost of activities addressing the need are reasonable and valid.

(5) Upon receipt of Department approval of the increase, the contractor provides at least 30 days written notice to each resident and the resident council of the increase. This provision does not apply if the contractor implements the increase in rent at the beginning of next on-season following receipt of Department approval; however, the contractor shall provide written notice of the following to each resident at the time of the execution of the lease:

(1) the amount of rent increase from the previous season; and

(2) the standard used to calculate the increase.

(c) Any funds collected pursuant to this section shall be obligated by the Department for use at the center from which they originated, and shall not supplant any other funds that would have been allocated to the center for operations or rehabilitation costs. The contractor shall have primary responsibility for accounting for funds collected pursuant to this section; shall remit the funds collected to the Department; and shall report the name of the center from where the special rents were collected, the date the special rents were collected (less any rent refunds) and the net amount remitted to the Department. Rent collected under this section shall be remitted by the contractor to the Department by the tenth (10th) of each month. Upon receipt of the Department's approval, the contractor shall hold special rents in a special OMS Resident fund account and shall disburse the special rent funds only for the use for which the special rent was authorized. The contractor shall provide a detailed reporting of the funds received and expended as required by the Department.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. New section filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
2. Amendment of subsections (a)(1)-(2), (a)(3)(A), and (a)(5), new subsections (b)-(b)(5) and subsection relettering, and amendment of newly designated subsection (c) filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
3. Change without regulatory effect amending subsections (a)(1)-(2), (a)(3)(A), and (a)(5), repealing subsections (b)-(b)(5), subsection relettering, and amend-

ment of newly designated subsection (c) filed 7–31–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).

4. Amendment filed 3–17–98; operative 3–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

Article 6. Contractor Responsibilities

§ 7660. Contractor Responsibilities.

Each contractor shall provide administrative, fiscal, and management services, employ staff, and purchase, rent, and use supplies and materials as needed to operate, maintain, and protect each migrant housing center in accordance with these regulations and the contract executed between the Department and contractor.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7661. Contracts.

All contracts between the Department and any contractor shall be consistent with these regulations, and where there is a conflict, the regulations shall prevail.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7662. Maintenance.

Each contractor shall maintain each migrant housing center in a safe and sanitary condition in accordance with standards prescribed by the Department, state law, and local ordinance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7663. Records.

Contractor shall maintain such records and accounts, including property, personnel, and financial records, as are deemed necessary by the Department to ensure a proper accounting of all state and other migrant center funds and shall retain the same for at least three years after the expiration of each annual contract. The Department shall have access to and the right to examine and audit all reports, records, books, papers, or other documents related to contractor's performance under each annual contract.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7664. Resident Council.

Not more than 30 days after a migrant housing center has:

(a) Become at least 50% occupied; or

(b) Upon petition of 50% of the residing heads of households, contractor shall assist and encourage the residents of the migrant housing center to elect from among themselves a Resident Council which shall have the following responsibilities:

(1) Elect from among themselves a chairperson;

(2) Advise the contractor and/or the Department on any matter pertinent to the operation of the migrant housing center;

(3) Represent all residents of the migrant housing center on matters which properly should be presented to the contractor and/or the Department.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7665. Alterations to Migrant Centers.

Each contractor shall not make nor shall permit to be made any substantial alteration or addition to any migrant center without written consent of the contractor and the Department. This section shall not apply to facilities owned exclusively by a contractor or other interests and not meant for the use of migratory agricultural workers.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2–26–82; effective thirtieth day thereafter (Register 82, No. 9).

Subchapter 8. California Housing Rehabilitation Program

Article 1. General

§ 7670. Purpose and Scope.

(a) This subchapter establishes the California Housing Rehabilitation Program and implements and interprets chapter 6.5 (commencing with section 50660) of part 2 of division 31 of the Health and Safety Code, and chapter 12.45 (commencing with section 8878.15) of division 1 of Title 2 of the Government Code.

(b) These regulations establish procedures for the award and disbursement of loans and establish policies and procedures for use of these funds to rehabilitate rental housing developments.

(c) Until July 1, 1990, unless extended by statute, all loans from the Housing Rehabilitation Loan Fund for the rehabilitation of rental housing, with the exception of loans made pursuant to sections 50671 and 50671.5 of the Health and Safety Code, shall be governed by this sub-

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chapter, and this subchapter supersedes provisions of subchapters 5 (commencing with section 7400) and 5.5 (commencing with section 7450) of this chapter which conflict with provisions of this subchapter.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Chapter 6.5 (commencing with section 50660), part 2, division 31, Health and Safety Code; and chapter 12.45 (commencing with section 8878.15), division 1, Title 2, Government Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a) and (c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsections (a) and (c) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7671. Definitions.

In addition to the definitions found in chapter 2 (commencing with section 50050), of part 1 of division 31 of the Health and Safety Code and subchapter 2 (commencing with section 6910) of chapter 6.5 of this Title, the following definitions shall apply to this subchapter. In the event of a conflict between these definitions and those, these definitions prevail for the purposes of this subchapter:

(a) "Assisted unit" means a dwelling unit, or a residential hotel unit, or a bedroom in a group home or congregate home, designated for occupancy or occupied by eligible households.

(b) "Congregate home" means a single–family house occupied by two or more households, each of which is capable of independent living but which chooses to live in one dwelling unit and to share the household responsibilities, including the maintenance of the structure and other responsibilities.

(c) "Conversion" means the alteration of nonresidential space within an existing structure to dwelling units or residential hotel units in a rental housing development.

(d) "Debt service coverage ratio" means the ratio of (1) operating income less operating expenses to (2) debt service payments, excluding prepayments.

(e) "Direct or supportive tenant services" means meals, transportation, recreational and social activities, independent living training, vocational training, counseling, and similar services provided or organized by the sponsor or its agent.

(f) "Director" means the Director of the Department of Housing and Community Development.

(g) "Distributions" means the amount of cash or other benefits received from the operation of the rental housing development and available to be distributed pursuant to section 7684 to the sponsor or any party having a beneficial interest in the sponsor entity, after payment of all due and outstanding obligations incurred in connection with the rental housing development. Distributions do not include payments for debt service, principal repayment, operations, maintenance, payments to required reserve accounts, property management or other services as set forth in the Regulatory Agreement for the rental housing development.

(h) "Eligible households" means very low–income households or other lower income households.

(i) "Fiscal integrity" means that the total of operating income plus funds released pursuant to the Regulatory Agreement from the operating reserve account is sufficient to (1) pay all current operating expenses, (2) pay all current debt service, (3) fully fund for at least twelve consecutive months all reserve accounts (other than the operating reserve account) established pursuant to the Regulatory Agreement, (4) maintain a debt service coverage ratio as specified in the Regulatory Agreement, and (5) pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the annual permitted distribution shall not be considered in determining fiscal integrity.

(j) "Fund" means the same as defined in section 8878.16(c) of the Government Code.

(k) "Group home" means a residential structure or structures where two or more handicapped persons or households reside in a group living arrangement and receive direct and supportive services provided under the supervision or oversight of the local public official responsible for services to the designated tenant population, including a residential facility as defined by section 1502 of the Health and Safety Code. Intermediate care or skilled nursing facilities are not considered group homes and are not eligible for funding. For purposes of this definition "handicapped" means a family in which the head of the household is suffering from an orthopedic disability impairing personal mobility or a physical disability affecting his or her ability to obtain employment or a single person with such an orthopedic or physical disability, where the family or person requires special care or facilities in the home; or person requires special care or facilities in the home; or a family in which the head of household suffers from a developmental disability specified in subdivision (a) of section 4512 of the Welfare and Institutions Code or a mental disorder which would render him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, or a single person with such a developmental disability or mental disorder.

(l) "Household income" means the same as "gross income" as defined in section 6914 of this Title.

(m) "Initial operating year" means the first year of operation, or portion thereof, of the rehabilitated rental housing development beginning at the time of initial occupancy of an assisted unit and ending on the last day of the fiscal year of that development.

(n) "Limited equity housing cooperative" means an entity defined by section 50076.5 of the Health and Safety Code. All requirements in this subchapter shall be applicable to units and residents of limited equity housing cooperatives unless the context indicates otherwise.

(o) "Local agency" means the same as defined in section 8878.16(d) of the Government Code.

(p) "Lower income household" means persons or families as defined in section 50079.5 of the Health and Safety Code.

(q) "Nonprofit corporation" or "nonprofit sponsor" means the same as "nonprofit corporation" as defined in section 50091 of the Health and Safety Code.

(r) "Operating expenses" means the amount approved by the department that is necessary to pay for the essential recurring expenses of the project, such as utilities, maintenance, management, taxes, and licenses, and mandatory direct or supportive tenant services but not including debt service, required reserve account deposits, or costs for voluntary direct or supportive tenant services.

(s) "Operating income" means all income generated in connection with the operation of the rental housing development including rental income for assisted and non–assisted units, rental income from nonresidential space, laundry and equipment rental fees, rental subsidy payments, and interest on any accounts related to the rental housing development. "Operating income" does not include security and equipment deposits, payments for direct or supportive tenant services that tenants are not required to pay for as a condition of occupancy, or tax benefits received by the sponsor.

(t) "Potentially hazardous building" means the same as defined in section 8875(a) of the Government Code.

(u) "Program" means the California Housing Rehabilitation Program.

(v) "Project" means a rental housing development, the rehabilitation, or rehabilitation and acquisition, and operation thereof, using program funds, and the financing structure and all agreements and documentation approved in connection therewith.

(w) "Reconstruction" means replacing an existing residential structure with a rental housing development of similar type, with not less than an equal number of units and bedrooms and level of amenities.

(x) "Rehabilitation" means repairs and improvements to a substandard rental housing development necessary to correct defects causing it to be a substandard building pursuant to section 17920.3 of the Health and Safety Code, and to meet rehabilitation standards as defined in section 50097 of the Health and Safety Code. Rehabilitation also includes reconstruction or conversion.

(y) "Rent" means all mandatory charges, other than deposits, paid by the tenant for the use and occupancy of an assisted unit and any mandatory charge for direct or supportive tenant services in a rental housing development, whether the units are rented or operated as a limited equity housing cooperative. In a group home, when mandatory charges include direct or supportive tenant services, "rent" means that amount designated for room charges by the Department of Social Services or other agency responsible for services to the designated tenant population.

(z) "Rent-up costs" means costs incurred in connection with marketing and preparing an assisted unit for occupancy while the unit is on the housing market but not rented to its first tenant.

(aa) "Rental housing development" means the same as defined in section 50668.5(h) of the Health and Safety Code and includes housing for the elderly or handicapped as authorized in section 50669 of the Health and Safety Code.

(bb) "Rural area" means the same as defined in section 50101 of the Health and Safety Code.

(cc) "Seismic rehabilitation improvements" means the same as defined in section 50668.5(b)(5) of the Health and Safety Code.

(dd) "Substandard rental housing development" means a structure or structures used or intended to be used as a rental housing development which is a substandard building pursuant to section 17920.3 of the Health and Safety Code.

(ee) "Very low-income household" means persons or families as defined in section 50105 of the Health and Safety Code.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Chapter 6.5 (commencing with section 50660), part 2, division 31, Health and Safety Code; and chapter 12.45 (commencing with section 8878.15), division 1, Title 2, Government Code.

HISTORY

1. New section filed 6-12-89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6-12-89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10-10-89. For history of former subchapter 8 (sections 7700-7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10-6-89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10-10-89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-7-90.
3. New section refiled 2-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2-7-90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-7-90.
4. Amendment filed 3-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3-5-90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7-3-90.
5. Certificate of Compliance as to 2-5-90 and 3-5-90 orders including amendment of subsections (b), (f), (k), (l), (s), (w), (x), (y), (aa), (cc) and (dd) transmitted to OAL 5-22-90 and filed 5-29-90 (Register 90, No. 29).

Article 2. Program Requirements

§ 7672. Eligible Project.

(a) To be eligible for funding, a proposed project must involve one or more of the following structures:

(1) a substandard rental housing development that will have one or more assisted units;

(2) a rental housing development eligible for seismic rehabilitation improvements pursuant to section 7675;

(3) an existing structure that will undergo a conversion and will have one or more assisted units; or

(4) an existing substandard residential structure that will undergo reconstruction and will have one or more assisted units.

(b) To be eligible for funding, a proposed project must involve either rehabilitation or seismic rehabilitation improvements.

(c) To be eligible for funding, a proposed group home project must have the written support of the local official responsible for services to the designated tenant population in the jurisdiction in which the proposed project is located, such as the Mental Health Director or Regional Center Director, and must be designated by that local official as being an intrinsic part of that agency's established service delivery system.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 8875, 8875.1, 8875.2, 8878.20 and 8878.21, Government Code. Sections 19161, 19162, 19163, 50096, 50097, 50660, 50668.5 and 50670, Health and Safety Code.

HISTORY

1. New section filed 6-12-89 as an emergency pursuant to Health and Safety Code Section 50668.5(g); operative 6-12-89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10-10-89. For history of former subchapter 8 (sections 7700-7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10-6-89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10-10-89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-7-90.
3. New section refiled 2-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2-7-90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-7-90.
4. New subsection (c) filed 3-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3-5-90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7-3-90.
5. Certificate of Compliance as to 2-5-90 and 3-5-90 orders including amendment of subsection (c) transmitted to OAL 5-22-90 and filed 5-29-90 (Register 90, No. 29).

§ 7673. Eligible Sponsor.

(a) A sponsor shall be any individual, joint venture, partnership, limited partnership, trust, corporation, limited equity housing cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof meets the requirements of subdivision (c).

(b) A sponsor may be organized on a for-profit, including limited profit, or nonprofit basis.

(c) In order to be eligible for funding, an applicant must be a sponsor who:

(1) demonstrates ability or experience relevant to owning, rehabilitating, and operating rental housing through any of the following:

(A) prior ownership, rehabilitation and operation of rental housing;

(B) staff with demonstrated ability or experience owning, rehabilitating and operating rental housing; or

(C) contracting with a consultant or consultants with demonstrated ability or experience assisting with the owning, rehabilitation and operation of rental housing; and

(2) has site control of the proposed project property by one of the following:

(A) fee title;

(B) a leasehold interest on the project property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with all program requirements;

(C) an option to purchase or lease;

(D) a disposition and development agreement with a public agency;

(E) a land sales contract, or other enforceable agreement for the acquisition of the property.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50668.5 and 50669, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a) and (c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsections (a) and (c) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7674. Eligible Uses of Funds.

(a) Funds may be used only for eligible costs that are incurred on the project as set forth in this section. In addition, the costs must be necessary and must be consistent with the lowest reasonable cost given consistent with the project's scope and area.

(b) Eligible categories of costs include the following:

(1) acquisition of project property, including existing improvements, and costs related to such acquisition;

(2) refinancing of that amount of debt existing at the time of application which is necessary to achieve rents for low– and very–low income tenants in accordance with program requirements and costs related thereto;

(3) reconstruction, when the estimated cost including demolition, construction and related activities is less than the estimated cost of rehabilitation of the rental housing development;

(4) conversion when the resulting units are of modest design and with modest amenities and when the estimated total rehabilitation cost is less than the new construction cost of comparable units in the area;

(5) costs of rehabilitation necessary to correct code violations and those costs directly related to the correction of code violations;

(6) general costs required to correct unsafe, unhealthy and unsanitary conditions, and which are directly related to the project, including the following:

(A) general property improvements when the sponsor can demonstrate that such improvements are integral to the project;

(B) work related to protecting the physical security;

(C) work related to reducing long-term maintenance costs;

(D) other on–site and off–site improvements.

(7) seismic rehabilitation improvements, and work directly related thereto pursuant to section 7675;

(8) architectural, appraisal, engineering, legal and other consulting costs and fees, which are directly related to the planning and execution of the project and which are incurred through third–party contracts;

(9) administrative expenses pursuant to section 7680;

(10) rent–up costs;

(11) carrying costs during construction, including insurance, financing, and taxes;

(12) building permits and state and local fees;

(13) work lawfully required by a governmental entity which is reasonably required as a condition of project approval to correct unsafe, unhealthy or unsanitary conditions;

(14) relocation benefits and assistance to lower income residential tenants displaced as a result of acquisition and/or rehabilitation. All other temporary and permanent relocation benefits specified in section 7685 are not eligible uses of program funds;

(15) escrow, title insurance, recording and other related costs.

(c) If only a portion of the rental housing development consists of assisted units, funds from the fund may be used for the costs of all items specified in subdivision (b) associated exclusively with the assisted units. They may also be used for a share of the cost of such items that cannot specifically be allocated to either assisted units or non–assisted units or nonresidential space. This share shall not exceed an amount in direct proportion to the ratio between the gross floor area of the assisted units and the total gross floor area of the structure. No program funds may be used for costs associated exclusively with non–assisted units or nonresidential space except pursuant to section 7675.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a), (b)(2) and (c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7675. Seismic Rehabilitation Improvements.

(a) To be eligible to receive program funds for seismic rehabilitation improvements, a project must:

(1) be located within the jurisdiction of a local agency that has completed an inventory of unreinforced masonry buildings and has adopted a seismic mitigation program or ordinance pursuant to section 8875.2 of the Government Code or section 19163 of the Health and Safety Code;

(2) involve a structure which is identified as a potentially hazardous building by the local agency in which it is located; and

(3) involve a structure that contains, or will contain, at least six dwelling or residential hotel units, where at least 70 percent of all dwelling or residential hotel units will be assisted units and at least 50 percent of the total gross floor area will be used for residential purposes.

(b) Only program funds allocated pursuant to Government Code section 8878.20 may be used for seismic rehabilitation improvements and work directly related thereto.

(c) If only a portion of the rental housing development consists of assisted units, no program funds shall be used with respect to the nonresidential space or non–assisted units unless both of the following apply:

(1) The funds are used for seismic rehabilitation improvements and work directly related thereto; and

(2) The funded activity is integral to the seismic rehabilitation improvements and work related thereto being performed on the assisted units.

(d) Where program funds are used to pay any costs associated with seismic rehabilitation improvements, and work directly related thereto, of nonresidential space, cash distributions for the entire structure shall be limited in accordance with section 7684.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 19161, 19162, 19163 and 50668.5, Health and Safety Code; and Sections 8875.1, 8875.2 and 8878.20, Government Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regula-

tion will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.

2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.

3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.

4. Amendment of subsections (a)(1), (c) and (d) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.

5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsections (c) and (d) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7676. Term of Loan.

(a) For projects involving rehabilitation and either acquisition or refinancing, the initial loan term shall be 30 years. For projects involving only rehabilitation, the initial loan term shall be 20 years.

(b) Upon request by the sponsor, the department shall approve an initial loan term longer than those set forth in subdivision (a) provided that such longer term does not exceed the useful life of the rental housing development as determined by the department utilizing general industry standards.

(c) Upon request by the sponsor, the department may approve one or more ten–year extensions of the loan term, if the department determines prior to granting each extension that both of the following are met:

(1) The sponsor is in compliance with the Regulatory Agreement and agrees to continue to comply during the extended term; and

(2) The extension is necessary to continue operations consistent with program requirements.

(d) The department may condition each extension on such terms as it deems necessary to ensure compliance with the requirements of this program.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50668.5 and 50670, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.

2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.

3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.

4. Amendment of subsections (c) and (d) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.

5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsection (c) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7677. Maximum Loan Amounts.

(a) The maximum loan amounts shall correspond to the loan limits provided in subdivision (a)(1) of section 7460 of this Title. The amounts for a small apartment unit and for a large apartment unit shall be the same as the limits provided for a small unit and for a large unit. The amounts for a single–family house shall be the same as the limits for a single–family dwelling. (The amounts for a residential hotel unit shall be the same as those limits shown for a residential hotel unit.)

(b) The loan amount is limited to the amount required when considered with other available financing, in order to achieve all of the following:

(1) to enable the rehabilitation and either acquisition or refinancing, or rehabilitation only, of the rental housing development;

(2) to ensure that rents for assisted units are in accordance with program requirements; and

(3) to operate in compliance with all other program requirements.

(c) The total maximum loan amount shall not exceed the number of assisted units multiplied by the maximum loan amount for the unit type as set forth in subdivision (a)(1) of section 7460 and subdivision (a) of this section.

(d) The department may approve a higher loan amount per assisted unit if the sponsor is unable to otherwise finance project costs and the department determines that either of the following circumstances exists:

(1) The higher loan amount for any assisted unit or units is consistent with the lowest reasonable cost of similar projects in the same area meeting minimum rehabilitation or seismic code standards, other eligible and necessary costs, and local building and land use requirements; or

(2) The higher loan amount for any assisted unit or units is necessary to correct severe health and safety defects or to meet handicapped accessibility standards.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50668.5 and 50670, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.

2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.

3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.

4. Amendment of subsections (a) and (b)(1) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.

5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsections (a) and (b) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7678. Interest Rate and Loan Repayments.

(a) Loans shall bear simple interest of three percent per annum on the unpaid principal balance. Interest shall accrue from the date that funds are disbursed by the department to an escrow holder on behalf of the sponsor.

(b) Accrued interest shall be payable annually to the department commencing no later than the sixtieth (60th) day after the last day of the initial operating year and continuing no later than that date annually thereafter until the loan is paid in full.

(c) Upon request by the sponsor, the department may permit periodic payments of principal, provided that the resulting additional debt service will not jeopardize the fiscal integrity of the project or the sponsor's ability to maintain rents in accordance with program requirements. The department may approve a repayment plan at loan closing or any time thereafter, subject to the following:

(1) The repayment plan shall be based on actual or projected net cash flow which shall be calculated by subtracting from total operating income the sum of the amounts necessary for project fiscal integrity plus the amount for the allowable distribution to sponsor pursuant to section 7684.

(2) The repayment plan may include provision for an incentive payment to the sponsor not to exceed the proposed repayment to be applied to the principal. Such payment to the sponsor shall be in addition to the sponsor's permitted distribution pursuant to section 7684.

(3) The additional debt service and any payments to sponsor under this subdivision shall not be included in determining compliance with the

project's debt service coverage ratio requirements of Health and Safety Code section 50668.5(d).

(d) Upon request by the sponsor, the department may approve, either at loan closing or any time thereafter, the deferral of accrued interest for such periods and subject to such conditions as may enable the sponsor to maintain affordable rents and maintain the fiscal integrity of the project.

(e) The total amount of the outstanding principal and interest, including deferred interest, shall be due and payable in full to the department at the end of the loan term including any extension granted by the department, or upon the department's termination of the loan.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50662, 50668.5 and 50669, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsections (a), (b), and (c) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7679. Loan–to–Value Limits.

(a) The ratio of total indebtedness secured by the project property, including the department's loan, to the total after–rehabilitation value of the project property shall not exceed 90 percent, except when the sponsor is a nonprofit sponsor, in which case the ratio shall not exceed 100 percent. In the event there is a transfer of the project between a for–profit sponsor and a nonprofit sponsor, the loan–to–value ratio applicable to the acquiring party shall apply to the project upon transfer.

(b) The after–rehabilitation value shall be based on an appraisal, undertaken at the sponsor's expense, that

(1) is prepared by an individual who:

(A) has the knowledge and experience necessary to appraise income property competently;

(B) is aware of, understand, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal;

(C) in reporting the results of the appraisal, communicates each analysis, opinion, and conclusion in a manner that is not misleading as to the true value and condition of the property;

(D) if developing a business appraisal, is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal;

(E) in reporting the results of a business appraisal, communicates each analysis, opinion, and conclusion in a manner that is not misleading as to the true value and condition of the property.

(2) utilizes all of the following methods to determine value:

(A) sales of comparable developments;

(B) capitalization of income;

(C) replacement cost; and

(3) includes the pre–rehabilitation value, if requested by the department.

(c) The department shall not accept any appraisal that does not conform to the provisions of subdivision (b).

(d) The department shall accept the valuation from the replacement cost method as the after–rehabilitation value of the project property when the department determines that such method accurately reflects sufficient value in the project to meet the loan–to–value limits pursuant to this section.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50662, 50668.5 and 50670, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (b) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsection (b) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7680. Administrative Expenses.

(a) Administrative expenses are those expenses incurred by the sponsor related to the planning and execution of the project. Such expenses include, but are not limited to the following:

(1) salaries, wages, and related costs of the sponsor's staff engaged in the planning and execution of the project, including general legal services, accounting and auditing relating to the sponsor's operations, and financial packaging;

(2) travel costs and other general overhead costs which are attributable to the project;

(3) expenses for sponsor's administrative services performed and paid for under third–party contracts.

(b) Administrative expenses do not include those legal, architectural, engineering, or financial fees which are directly related to the planning and execution of the project and which are incurred by the sponsor through third–party contracts eligible for funding pursuant to section 7674(b)(8).

(c) Sponsors seeking program funds for administrative expenses shall include in their application a statement of administrative expenses incurred to date, and a budget for anticipated administrative expenses. The statement and budget shall include sufficient detail and explanation to permit the department to determine eligibility and reasonableness of the expenses. The department may include in the loan amount those administrative expenses shown in the statement and anticipated budget provided it determines that those expenses are reasonable and necessary considering the nature and scope of the project.

(d) The department shall not fund administrative expenses in excess of 10 percent of the approved loan amount unless the sponsor can demonstrate to the department's satisfaction that costs in excess of this limitation are the result of expenses such as those incurred for architectural, engineering, and legal services, which would otherwise qualify for funding as consultant services pursuant to section 7674 (b)(8).

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.

3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1 (h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (d) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsection (d) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7681. Occupancy Requirements.

(a) A unit in a rental housing development may be designated as an assisted unit if at the time of initial application:

(1) the unit is occupied by an eligible household;

(2) the unit is vacant and will remain available to an eligible household; or

(3) a noneligible household residing in the unit has agreed not to return to the unit as evidenced by a signed waiver of the tenant's right pursuant to section 7265.3(d) of the Government Code to return to the unit after rehabilitation. Any such waiver must be in writing and meet the notice requirements of section 7685(f).

(b) The sponsor shall designate as assisted units, at a minimum, the same number of units as were reasonably known to be occupied by eligible households residing in the rental housing development at the time of initial application.

(c) All rooms rented in a congregate home, and all rooms designated for use by the client group in a group home shall be designated for occupancy by eligible households.

(d) The size, type and amenity level of assisted units after rehabilitation shall not substantially differ from the size, type, and amenity level of units as were known to be occupied by eligible households residing in the rental housing development at the time of initial application to the program. Units which are reconfigured or enlarged to alleviate overcrowding shall not be considered a violation of this provision.

(e) A proposed project receiving rating points pursuant to section 7689 for serving very low–income households shall reserve at least this number of units for occupancy by very low–income households for the full loan term.

(f) The number, size, type, and amenity level of assisted units, and assisted units designated for very low–income occupancy, shall not be fewer than the number nor substantially different from the size, type and amenity level designated in the Regulatory Agreement for the full loan term.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50010, 50669 and 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsection (d) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsection (b) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7682. Tenancy Standards.

(a) Sponsors shall select only eligible households as tenants of assisted units. The sponsor shall develop a tenant selection plan for assisted units which shall be subject to the approval of the department. The plan shall include the following:

(1) an affirmative marketing plan which shall include policies and steps to ensure equal access to all housing units in the rental housing development for all persons in any category protected by federal, state or local laws governing discrimination, and regardless of any other arbitrary factor.

(2) reasonable criteria for selection or rejection which shall not discriminate in violation of any federal, state or local laws governing discrimination, or any other arbitrary factor.

(3) prohibition of local residency requirements.

(4) tenant selection procedures that include the following requirements:

(A) selection of tenants based on order of application, lottery or other reasonable method approved by the department;

(B) notification of tenant applicants of eligibility and, based on turnover history, when a unit may be available;

(C) notification of tenant applicants of ineligibility to occupy an assisted unit and the reason for the ineligibility; and

(D) maintenance of a waiting list of eligible households applying to occupy assisted units and if applicable, which distinguishes between lower and very low–income tenants.

(5) tenant occupancy standards that shall be used by the sponsor upon both initial occupancy and recertification to determine a tenant's unit size, as follows:

Unit Size	*Minimum No. of Persons in Household*
0–BR	1
1–BR	1
2–BR	2
3–BR	4
4–BR	6
5–BR	8

(A) Flexibility for assignment by a sponsor to a different sized unit is permitted if the sponsor reasonably determines that special circumstances warrant such an assignment and the reasons are documented in the tenant's file.

(B) If at the time of recertification, the tenant's household size has changed and no longer meets the minimum occupancy standards pursuant to this subdivision, tenant household shall be required to move to the next available appropriately sized unit pursuant to this subdivision.

(b) The sponsor shall submit for Department approval the form of the rental agreement for assisted units prior to its use. The form shall include the following:

(1) provisions requiring good cause for termination of tenancy. One or more of the following constitutes "good cause:"

(A) failure by the tenant to maintain eligibility under the program;

(B) material noncompliance by the tenant with the lease, including one or more substantial violations of the lease or habitual minor violations of the lease which

1. adversely affect the health and safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities;

2. substantially interfere with the management, maintenance, or operation of the rental housing development;

3. result from the failure or refusal to pay, in a timely fashion, rent or other charges when due. Failure or refusal to pay in a timely fashion is a substantial violation of the lease when there is nonpayment of rent or other financial obligations under the lease after a three–day notice to pay rent or quit, but such failure or refusal to pay in a timely fashion is a minor violation if payment is made during the three–day notice period.

(C) material failure by the tenant to carry out obligations under state or local law;

(D) subletting by the tenant of all or any portion of the assisted unit;

(E) actions or conduct of the tenant constituting significant problems which can be reasonably resolved only by eviction of the tenant and for

which the sponsor previously notified the tenant that the conduct in question would be considered cause for eviction. These may include the refusal after written notice, to accept reasonable rules or any reasonable changes in the lease or the refusal to recertify income or household size.

(2) a provision requiring that the facts constituting the grounds for any eviction be set forth in the notice provided to the tenant pursuant to state law;

(3) establishment of grievance procedures for hearing complaints of tenants and appeal of management action;

(4) a requirement that the tenant annually recertify household income and size.

(c) If, upon notification of tenant or at the time of recertification, the tenant's household income extends the upper limit for lower income households, the tenant's lease shall terminate six months after the date of recertification and the tenant shall be required to vacate the assisted unit.

(1) If the tenant provides to the sponsor additional evidence which establishes income eligibility prior to the expiration of the six months, the tenant shall not be required to vacate the assisted unit.

(2) Upon determination by the sponsor that the rental housing development is located in a high cost rental area with low rental vacancy rates as determined by the department, the sponsor may approve one additional six-month extension of the lease.

(3) If the assisted unit is subject to state or federal rules governing low-income housing tax credits, those eligibility provisions shall govern continued eligibility for occupancy.

(4) In a limited equity housing cooperative where the household income of a tenant occupying an assisted unit exceeds the upper limit for lower income households, the tenant shall not be required to vacate the assisted unit.

(A) After recertification and determination of ineligibility, the sponsor shall immediately notify the tenant that the rent will increase to a market rate payment six months after said notification. Market rate payment shall be the rent paid for a comparable unassisted unit, or the rent charged for comparable units in the area. This market rate payment shall be subject to department approval.

(B) The next available membership share for occupancy in a comparable unit shall be sold to an eligible household.

(d) If the income of a household residing in a unit designated for occupancy by very low-income households changes from very low-income to other lower income at the time of recertification, the following shall apply:

(1) The household shall not be required to vacate the unit;

(2) The sponsor shall charge rent that does not exceed the highest current rent allowed for any comparable assisted unit designated for occupancy by lower income households pursuant to section 7683, or where there are no such units, the maximum rent which would be allowed pursuant to section 7683;

(3) The sponsor shall designate the unit as an assisted unit for lower income households until the lower income household vacates the unit; and

(4) The sponsor shall designate the next available comparable assisted unit as an assisted unit for very low-income households units the unit mix required by the Regulatory Agreement is achieved.

(5) In a limited equity housing cooperative, where the tenants in an assisted unit designated as a very low-income unit becomes an other lower-income household, the sponsor shall comply with the provisions of subdivisions (d)(1) through (d)(4).

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50010, 50668.5 and 50670, Health and Safety Code.

HISTORY

1. New section filed 6-12-89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6-12-90 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 10-10-89. For history of former subchapter 8 (sections 7700-7714.5, not consecutive), see Register 85, No. 33.
2. New section filed 10-6-89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10-10-89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 2-7-90.
3. New section refiled 2-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2-7-90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 6-7-90.
4. Amendment of subsections (a)(1)(D) and (E) filed 3-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3-5-90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7-3-90.
5. Certificate of Compliance as to 2-5-90 and 3-5-90 orders including amendment of subsection (b) transmitted to OAL 5-22-90 and filed 5-29-90 (Register 90, No. 29).

§ 7683. Rent Standards.

(a) The department shall establish initial rent for assisted units in each project in accordance with the tables in section 6932 and the following:

(1) Rents for units reserved for occupancy by lower income households shall not exceed 30 percent of 60 percent of the monthly area median income for the household size specified in subsection (a)(2) below at the time of initial occupancy.

(2) The household size to be used in calculating maximum rent shall vary based on unit size as follows:

Unit Size	*Applicable Household Size to Determine Income Limit*
residential hotel unit or bedroom in a group home or congregate home	75 percent of 1 person, which may be multiplied by 2 for group homes if there are 2 occupants per bedroom
0 bedroom	1 person
1 bedroom	2 person
2 bedrooms	3 person
3 bedrooms	4 persons
4 bedrooms	6 persons
5 bedrooms	8 persons

(3) The maximum rent to be charged to tenants shall be determined by deducting from the maximum amounts calculated pursuant to (a)(1) and (a)(2) a utility allowance (for the appropriate unit size) determined or approved by the United States Department of Housing and Urban Development under section 8 of the United States Housing Act of 1937, section 1437f, Title 42 U.S.C., for the locality in which the rental housing development is located. Where a tenant does not directly pay for utilities, the utility allowance deduction shall be zero.

(4) As used in this section "rent" does not include any payment to a sponsor under section 8 of the United States Housing Act of 1937, section 1437f, Title 42 U.S.C., or any comparable federal or state rental assistance program.

(5) For an assisted unit occupied by an eligible household at the time of initial application to the program, the after-rehabilitation rent may not exceed the greater of (i) the rent charged at the time of initial program application, or (ii) 25% of the subject tenant household's monthly gross income. In no event is the rent to exceed that which could be charged pursuant to subdivision (a)(1), (2), and (3) above.

(b) After the initial operating year, rents in assisted units may be adjusted no more often than annually. The amount of adjustment for assisted units shall be in accordance with the following:

(1) Rents may be increased at a rate not to exceed the most recently published annual average percentage change in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index, Residential Rent for All Urban Consumers for the West (CPI), multiplied by the ratio of the previous year's budgeted operating expenses plus required reserves to the previous year's operating income attributed to residential units;

(2) In addition to the rent increase allowed pursuant to subdivision (b)(1), rents may be increased by that amount necessary to increase the

operating income to cover changes in debt service on an adjustable rate mortgage approved by the department as part of the project;

(3) Notwithstanding the provisions of subdivisions (b)(1) and (b)(2), rents shall be decreased if there are changes in debt service approved by the department after loan closing when such changes improve the financial condition of the project. The rent shall be decreased by an aggregate amount equal to the amount of the monthly payment reduction.

(4) Except as provided in section 7685(e)(1), the first adjustment after the initial operating year shall be prorated based on the allowable rent increase multiplied by the fraction of a full year which constitutes the initial operating year.

(c) The sponsor may request for a greater rent increase if the sponsor can demonstrate, to the department's satisfaction, that the increase is necessary to pay for unusual or unforeseeable increases in costs related to the assisted units and to preserve fiscal integrity. The sponsor may not receive a greater rent increase on the grounds that fiscal integrity is threatened by a shortfall in income, unanticipated expenses or other financial problems attributable to nonresidential space or nonassisted units.

(d) Any allowable rent increase or portion thereof not implemented by the sponsor in any given year may not be accumulated for implementation in subsequent years.

(e) Where the assisted units are rent restricted as a condition of the low-income housing tax credit or other state and federal rent subsidy programs, the initial rent for assisted units and subsequent rent increases shall be the lower of those permitted under subdivisions (a), (b), or (c), or those permitted under the applicable tax credit or other programs.

(f) The sponsor shall submit requests for rent adjustments pursuant to subdivision (c) above as part of the annual operating budget pursuant to section 7696.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50668.5 and 50670, Health and Safety Code.

HISTORY

1. New section filed 6-12-89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6-12-89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10-10-89. For history of former subchapter 8 (sections 7700-7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10-6-89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10-10-89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-7-90.
3. New section refiled 2-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2-7-90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-7-90.
4. Amendment of subsections (a)(1)(D) and (E) filed 3-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3-5-90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7-3-90.
5. Certificate of Compliance as to 2-5-90 and 3-5-90 orders including amendment of subsection (a), (b), and (c) transmitted to OAL 5-22-90 and filed 5-29-90 (Register 90, No. 29).

§ 7684. Limits on Distributions.

(a) A sponsor shall be limited to an annual distribution on the sponsor's actual investment in the project in an amount not to exceed eight percent per annum. A sponsor may not accumulate distributions from year to year.

(1) For a project involving only rehabilitation and no acquisition or refinancing, actual investment is determined as follows: the market value of the rental housing development prior to rehabilitation, as determined in an appraisal, less outstanding debt prior to rehabilitation, plus any cash contributions to the project made by the sponsor.

(2) For a project involving rehabilitation and either acquisition or refinancing, actual investment is the amount of any cash contributions to the project made by the sponsor. Cash contributions do not include government assistant or private donations, other than the sponsor's, to the project.

(b) In its initial operating budget, the sponsor shall demonstrate to the department the amount of the sponsor's actual investment in the residential portion of the project on which the allowable distribution will be calculated. The actual investment amount may be increased in subsequent budgets upon a showing of additional actual investment other than prepayments of principal advanced by the sponsor.

(c) Distributions shall be permitted only after the sponsor submits a complete annual report and operating budget and the department determines that the report and budget demonstrate compliance with all program requirements for the applicable year.

(d) Distributions attributed to the nonresidential space shall not be subject to limits pursuant to this section, except where program funds have been used for nonresidential space pursuant to section 7675(c). Where program funds have not been used pursuant to section 7675(c), then for purposes of calculating allowable distributions, operating income and expenses shall not include income or expenses from nonresidential space.

(e) No distributions shall be made in the following circumstances:

(1) when written notice of default has been issued by any entity with an equitable or beneficial interest in the rental housing development;

(2) when the department determines that the sponsor has failed to comply with the department's written notice of any reasonable requirement for proper maintenance or operation of the rental housing development;

(3) if all currently required debt service and operating expenses have not been paid;

(4) if the replacement reserve account or any other reserve accounts are not fully funded pursuant to section 7696 and the Regulatory Agreement.

(f) When operating income is greater than approved operating expenses, debt service, scheduled reserve deposits, approved prepayments, approved annual distributions, and any other disbursements approved by the department, then the sponsor shall pay such excess income into the Residual Receipts Account established pursuant to section 7697. Where program funds have not been used for costs attributable to nonresidential space pursuant to section 7675(c) and for purposes of calculating the amount of excess funds pursuant to this subdivision, operating income and expenses shall not include income or expenses from nonresidential space.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50668.5 and 50670, Health and Safety Code.

HISTORY

1. New section filed 6-12-89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6-12-89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10-10-89. For history of former subchapter 8 (sections 7700-7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10-6-89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10-10-89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-7-90.
3. New section refiled 2-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2-7-90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-7-90.
4. Amendment filed 3-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3-5-90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7-3-90.
5. Certificate of Compliance as to 2-5-90 and 3-5-90 orders including amendment of subsections (a), (b), (d) and (f) transmitted to OAL 5-22-90 and filed 5-29-90 (Register 90, No. 29).

§ 7685. Relocation Requirements.

(a) It shall be the sponsor's responsibility to ensure compliance with the relocation provisions set forth in this section. Loan funds may be used for relocation costs attributable to the lower income tenants as a result of the rehabilitation activities, including the payment of benefits required by this section. The department may authorize increases in the sponsor's approved loan amount for the purpose of paying eligible relocation costs attributable to lower income households, which could not be reasonably

foreseen by the sponsor at the time of application. Eligibility and relocation benefits shall be determined as set forth in this section, although additional requirements may be imposed by applicable federal, state, or local laws.

(b) All tenants in occupancy in a property who are permanently displaced as a direct result of an acquisition funded in whole or in part with program funds shall be entitled to relocation benefits as provided in chapter 16 (commencing with section 7260) of division 7, Title 1 of the Government Code.

(c) In the case of an acquisition funded in whole or in part with program funds, all existing residential tenants as well as residential tenants who were in occupancy on the date that the sponsor entered into the binding agreement for the purchase of the property shall be provided with a notice as specified herein no later than the date of application to the department for program funds. The notice shall contain all the following information:

(1) a statement that the sponsor has entered into an agreement to purchase the property;

(2) a statement that the sponsor is applying for public funds for the purpose of acquiring and rehabilitating the property;

(3) a statement that if the sponsor's application is funded and the rehabilitation work requires temporary relocation, all residential tenants will be entitled to return to their units; will be entitled to temporary relocation benefits; and if lower and moderate income, will have any rent increases limited to a total rent of no more than 25 percent of their incomes for a period of one year from the completion of the rehabilitation work;

(4) a statement that all residential tenants who are permanently displaced as a direct result of this acquisition may be entitled to financial benefits, which could include moving expenses and rent differential as required by law;

(5) a statement that if the application is funded, the sponsor will be required as a condition of funding to conduct a tenant survey including verification of tenants' incomes. A tenant's failure to provide complete and accurate information may result in the loss of some of the financial benefits described above;

(6) a statement indicating who to contact for further information or to make a claim.

(d) Any residential tenant who was in occupancy at the time of application to the department for funds and who is displaced to accommodate rehabilitation work shall be provided with temporary housing benefits for a period of up to 90 days, and shall be given the option of returning, after rehabilitation, to the unit from which he or she was displaced.

(e) Any residential tenant whose household income is lower or moderate as defined in section 50093 of the Health and Safety Code shall be entitled to the following benefits and shall be subject to the following additional provisions:

(1) After-rehabilitation rents shall not be raised to a level which exceeds 25 percent of that household's income for 12 months subsequent to the completion of rehabilitation. A tenant whose income is lower or moderate, but refuses to provide the income information necessary to establish rents pursuant to this paragraph shall not be eligible for relocation benefits due to an increase in rent in excess of that permitted by this paragraph. Income surveys to ensure compliance with the requirements of this paragraph and applicable relocation laws shall be completed prior to disbursement of program funds.

(2) A residential tenant or household whose income is lower or moderate shall be entitled to all relocation benefits provided pursuant to chapter 16 (commencing with section 7260) of division 7 of Title 1 of the Government Code if such tenant or household is permanently displaced as a direct result of the rehabilitation work.

(3) A residential tenant or household whose income is lower or moderate and whose temporary displacement exceeds 90 days shall be deemed permanently displaced and may elect to receive benefits on a monthly basis while retaining the right to reoccupy the previously occupied unit. When a tenant elects to receive his or her permanent relocation benefits pursuant to this paragraph on a lump sum basis, the tenant shall have waived his or her right to return to the unit upon completion of the rehabilitation.

(f) All residential tenants shall be given a notice which specifies their rights pursuant to this section no later than the time of application to the department for program funds. Any tenant's waiver of a right set forth in this section must be in writing and must specify in detail the relocation rights being waived.

(g) Any nonresidential tenant at the time of application by the sponsor to the department for program funds shall be entitled to relocation assistance and benefits to the extent required by applicable law from funds other than program funds.

(h) The sponsor shall prepare a relocation plan in conformance with the provisions of section 6038(b) of this Title based on the scope of the project and the extent of anticipated displacement. The relocation plan shall be subject to the review and approval of the department prior to the disbursement of program funds.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 7260, et seq., Government Code; and Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6-12-89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6-12-89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10-10-89. For history of former subchapter 8 (sections 7700-7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10-6-89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10-10-89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-7-90.
3. New section refiled 2-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2-7-90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-7-90.
4. Amendment of subsections (b), (d) and (g) filed 3-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3-5-90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7-3-90.
5. Certificate of Compliance as to 2-5-90 and 3-5-90 orders including amendment of subsections (b), (d) and (e) transmitted to OAL 5-22-90 and filed 5-29-90 (Register 90, No. 29).

§ 7686. Construction Requirements.

(a) The department shall review and underwrite project plans and specifications to ensure the following objectives:

(1) The rental housing development shall have a minimum useful life of 20 years for projects proposing only rehabilitation and 30 years for projects proposing rehabilitation and either acquisition or refinancing; and

(2) Maintenance, repair, and replacement costs shall be minimized during the useful life of the rental housing development.

(b) The sponsor shall ensure that the rehabilitation work for the project all be performed in a competent, professional manner at the lowest reasonable cost consistent with the project's scope and locality and not in excess of the total funds available. The sponsor may demonstrate the reasonableness of the proposed cost by soliciting bids based on a bid package distributed to potential licensed contractors located in the general area of the rental housing development or by the use of other methods which adequately demonstrate to the department's satisfaction that the costs are reasonable. Such bid package or other method shall include at a minimum:

(1) complete plans and specifications for the work; and

(2) a full description of the program requirements for rehabilitation, including the required provisions of the construction contract.

(c) The sponsor shall only enter into written contracts with contractors possessing valid California contractor's licenses. The contract shall be subject to the prior approval of the department to determine compliance with program requirements.

(d) The construction contract shall be a completely integrated agreement containing all the understandings, covenants, conditions and representations between the parties and, at a minimum, contain provisions which:

(1) require that the contractor complete the work in accordance with the approved plans and specifications and applicable local, state and federal laws, regulations and building codes and standards;

(2) require the contractor to proceed with and complete the work in accordance with the approved schedule for work;

(3) specify a total contract price consistent with the approved project budget;

(4) provide for a method of payment to the contract or consistent with program requirements which may include progress payments and retentions;

(5) require that the contractor provide a payment bond securing payment to persons providing goods or services to the project and a performance bond securing faithful completion of the work. Each bond shall be in an amount equal to 50 percent of the total contract price and include the department as a dual obligee. The department may waive the payment and performance bond requirements, or reduce their scope, upon the sponsor's either:

(A) providing alternative security for payment and performance under the construction contract which is substantially equivalent to the bond requirements, or

(B) demonstrating that the bonds, or the full amount thereof, are not necessary to protect the interests of the department and ensure completion of the rehabilitation work;

(6) permit the sponsor and the department and their designated agents and employees the right to inspect the project site and all books, records and documents maintained by the contractor in connection with rehabilitation work;

(7)(A) require the contractor to maintain insurance coverage in the following amounts:

1. Comprehensive General Liability Insurance in a minimum amount of $1,000,000 including: premises, operations, products/completed operations hazard, contractual insurance, independent contractor's protection, and personal injury, or their equivalent;

2. Broad Form Property Damage in a minimum amount of coverage equal to the total of all existing loans secured against the property;

3. Comprehensive Automotive Liability, including bodily injury of $1,000,000 per occurrence and per person and $1,000,000 or the total of existing loans secured against the property, whichever is greater, in Property Damage coverage;

4. Worker's Compensation and Employer's Liability Insurance to the extent required by State law.

(B) require the contractor to provide prior to the commencement of construction proof of coverage as evidenced by a Certificate of Insurance or a binder followed by a Certificate within thirty days.

(C) require all policies to include the sponsor and the department and its officers, agents, and employees, named as additional insureds.

(D) require the policies to include a cancellation clause notifying the department 30 days prior to cancellation of the policies. The department may approve alternate amounts of coverage based on the size of the project and scope of work to be performed.

(8) obligate the contractor to warrant the rehabilitation work for a period of not less than one year;

(9) require that the contractor pay all amounts when due for labor, work performed under subcontract, or materials, supplies and equipment provided to the project;

(10) provide for the assignment of the construction contract to the department upon sponsor's breach of the Rehabilitation Loan Agreement;

(11) include such special conditions applicable to the construction contract as may have been imposed in connection with the department's approval of the project for funding;

(12) require that the general contractor require all subcontractors to maintain similar insurance coverage as mentioned above, with the exception that the subcontractor' insurance need not name the sponsor or the department as additional insureds, and the minimum amount of coverage shall be $500,000.

(e)(1) The sponsor shall insure the property before, during, and after construction at the following minimum levels:

(A) Hazard (property) insurance to include:

1. all risk, or fire and lightning, extended coverage, vandalism and malicious mischief, or equivalent;

2. coverage of the entire structure to include all risk contents coverage;

3. replacement cost coverage or total value;

4. a maximum deductible per occurrence of $2,500, or $1,000 if the completed project value is less than $300,000;

5. a lenders loss payable endorsement insuring the department.

(B) Other property insurance to include:

1. Flood insurance with coverage insuring to 80% of replacement cost if the property is located in a 100 year flood plain;

2. Steam boiler and related machinery coverage insuring to 80% of replacement cost when applicable.

(C) Comprehensive General Liability insurance coverage, to include $1,000,000 per occurrence or $2,000,000 per occurrence for buildings with elevators.

(D) Other insurance coverage to include Loss of Rents coverage insuring 75% of annual gross rent receipts, and Worker's compensation as required by State law if employees are involved.

(2) The sponsor shall provide to the department prior to disbursement of funds evidence of such insurance coverage in the form of a Certificate of Insurance or binder followed by a certificate within 30 days.

(3) All policies must include the department, its officers, agents, and employees, named as additional insureds.

(4) The policies must include a cancellation clause notifying the department 30 days prior to cancellation of the insurance policy.

(5) The department may approve alternate amounts of coverage based on the size of the project and scope of work to be performed.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsection (b), (c), (d), and (e) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

Article 3. Application for Funding Procedures

§ 7687. Application Process.

(a) The department shall issue a Notice of Funding Availability (NOFA) which specifies the amount of funds available, application requirements, the allocation of rating points, and the general terms and con-

ditions of funding commitments. Applications in response to each NOFA will be accepted on a continuous basis.

(b) Within 30 days of the receipt of an application, the department shall provide the applicant with written notice whether the application is complete pursuant to section 7688(c). If the application is not complete, the notice shall specify the information or documentation necessary to complete the application.

(c) Applications shall be ranked at least quarterly.

(d) The department shall process a complete application within 60 days.

(1) Within 30 days of the determination by the department that an application is complete, the department shall provide the applicant with written notice whether the application has qualified for ranking pursuant to section 7689(c). If the application does not qualify for ranking, the notice shall provide an explanation of the rating and of the reasons for disqualification.

(2) Within 30 days of providing notice that an application qualifies pursuant to section 7689(c), the department shall provide the applicant with written notice whether an application qualifies for funding pursuant to section 7689(d). If an application does not qualify for funding, the notice shall include an explanation of the ranking and the reasons for the disqualification.

(e) Projects selected for funding shall be approved at loan amounts, terms, and conditions specified by the department.

(f) The department shall allocate not less than 20 percent of the monies from the fund to projects located in rural areas. If necessary, the department may do the following:

(1) issue a special NOFA for rural projects;

(2) award bonus points to rural projects;

(3) reserve a portion of funds specified in the NOFA for rural projects.

(g) The department's minimum, median, and maximum times for processing an application, from the receipt of the initial application to the final funding decision are as follows:

minimum: 60 days

median: 120 days

maximum: 180 days

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsection (b), (d) and (g) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7688. Application Requirements.

(a) Application shall be made on form HCD 779, "Rental Loan Application, California Housing Rehabilitation Program (CHRP)," dated 12/89, as set forth in subsection (b). This form is provided by the department.

(b) HCD 779, "Rental Loan Application, California Housing Rehabilitation Program (CHRP)," 12/89:

HCD 779, 12/89

RENTAL LOAN APPLICATION

CALIFORNIA HOUSING REHABILITATION PROGRAM (CHRP)

Loan for (check all applicable): _____ Acquisition _____ Refinancing _____ Seismic Rehabilitation _____ General Rehabilitation _____ Conversion _____ Reconstruction _____ for Residential Hotel _____ for Single Family Rental _____ for Multi–Family Rental _____ for Group Home _____ for Congregate Home _____ Building includes nonresidential space

SECTION I: GENERAL INFORMATION

A. APPLICANT

1. Name _____
2. Address _____
   (Street) (City) (Zip)
3. Phone ( ) _____
4. Chief Executive (if applicable) _____
   (Name) (Title)
5. Years in Existence (if applicable) _____
6. Contact Person _____ Phone ( ) _____
7. The Applicant is a (check one):
   [ ] individual
   [ ] limited partnership
   [ ] for-profit corporation
   [ ] public agency
   [ ] nonprofit corporation
   [ ] general partnership
   [ ] joint venture
   [ ] limited equity housing cooperative
   [ ] Indian reservation or rancheria
   [ ] other (specify)
8. Is any transfer of ownership to any other entity (e.g. syndication) planned prior to post–rehabilitation occupancy? Yes ___ No ___
9. Unless applicant is a public agency, label as "1: FINANCIALS." If joint venture, include separate documents for each partner. If partnership, include statements for the general partners.
10. Complete enclosed Development Qualifications form. Attach and label as "2: DEVELOPMENT QUALIFICATIONS."
11. Proposed term of loan and term of rent and occupancy restrictions:
    A. Rehabilitation only: ( ) 20 years ( ) other:
    B. Acquisition/Refinancing & Rehabilitation: ( ) 30 years ( ) other:
    C. How many years in addition to the minimum required by Section 7676(a) of the regulations are you committing to maintain rent and occupancy restrictions similar to program restrictions?

B. PROJECT SUMMARY

1. Project Name _____
2. Location _____
   (Street) (City) (County) (Zip)
3. Assembly District: _____ Senate District: _____
4. Amount and use of CHRP funds (complete after completing Section III, page 9):

Acquisition	$_____
Refinancing	$_____
Construction	$_____
Construction Fees	$_____
Carrying Charges	$_____
General Dev Costs (except admin.)	$_____
Syndication Costs	$_____
Admin. Costs	$_____
TOTAL	$_____

5. Describe below the tenant population expected to reside in the development after completion of rehabilitation. Specify any proposed limits on occupancy. (Sections 7681 and 7682 of the CHRP regulations list the program's requirements.) (Add pages if necessary.)
6. Is the residential portion of the structure currently vacant?
   Yes___ No___
   Is the nonresidential portion of the structure currently vacant? Yes___ No___

If yes to either of the above:
When did it become vacant?
What was its last use?

a. For all projects, attach and label the endorsed from "3: OCCUPANCY & RELOCATION."
b. Include in Attachment 3, one copy of the tenant notice provided to the occupants of each residential unit, as required in Section 7685(c) and (f) of the CHRP Regulations.
c. Include in Attachment 3, general description of the applicant's plan for providing relocation benefits or avoiding displacement, indicating whether tenants will need to move from the building, whether any relocation units have been identified, who will be supervising and conducting the relocation effort, and related information. Identify all planned measures that will minimize the cost and extent of relocation.

7. Number and type of units. See NOFA for definitions of "assisted," "lower-income," and "very low-income." If more than one site, show totals below and information for each site separately as "4: UNITS."

PROJECTS OTHER THAN SINGLE FAMILY HOMES:

	# Before Rehabilitation			*# After Rehabilitation*			
Type	*Lower-Income Units*	*Other Units*	*Total*	*Assisted Lower*	*Assisted Very Low*	*Non-Assisted*	*To-tal*
Res. Hotel Units (SRO)							
Studio/efficiency units							
1 bedroom units							
2 bdrm. units							
3 bdrm. units							
Other (specify)							
TOTAL							

SINGLE FAMILY HOMES ONLY:

Unit Description:	*# Before Rehabilitation*	*# After Rehabilitation*
Bedrooms occupied by tenants		
Bedrooms occupied by resident staff		
Bathrooms		
Tenants Description:		
Low-income tenants		
Very low-income tenants		
Resident staff (if applicable)		

8. Type of construction:
[ ] wood frame
[ ] reinforced brick or other reinforced masonry
[ ] unreinforced brick or other unreinforced masonry
[ ] other (specify)

9. If unreinforced brick or other unreinforced masonry:
a. Are CHRP funds being requested for seismic rehabilitation improvements? (See Section 7675 of the regulations)
Yes___ No___
b. If yes, have you been notified that the building is on the local jurisdiction listing of potentially hazardous buildings?
Yes___ No___
c. If yes to b., provide a letter or other notification regarding your building being on the list of potentially hazardous buildings and provide a letter from an appropriate local government official stating that the jurisdiction is in compliance with Section 8875.2 of the Government Code or Section 19163 of the Health and Safety Code. Label "5: SEISMIC INFORMATION."

10. Number of parcels____; Number of structures____; Number of stories per structure____;
11. Age of structure(s)____years
12. Does the project currently include both residential and nonresidential uses?
Yes___ No___
13. Will it have both uses after rehabilitation? Yes___ No___
If yes, describe existing and proposed non-residential uses:
14. a. Gross floor area of structure before rehabilitation:
Assisted Residential Uses___square feet (_%)
Nonassisted Residential Uses___square feet (_%)
Nonresidential Uses___square feet (_%)
TOTAL_____square feet 100%
b. Gross floor area of structure after completion of rehabilitation:
Assisted Residential Uses___
Nonassisted Residential uses___ square feet (_%)
Nonresidential uses___square feet (___%)
TOTAL___square feet 100%

15. Are there and/or will there be any specific amenities supplied to the tenants with cost included in the rent (e.g. linen service, furniture or appliances)?
Yes___ No___
If yes, describe:

16. In an attachment labeled "6 : CONSTRUCTION."
a. Describe the existing condition of each of the following components of your building (structural, plumbing, heating, roofing, doors, walls, electrical, foundation and mechanical.) Include a description of the need in each unit.
b. Include all inspection reports received in the last 12 months from local housing and building code officials, pest control services, roofing inspectors, etc.
c. Describe, by component, the proposed construction or repair work, and all work directly related to the construction or repair. If appropriate, provide schematic or other plans related to the work.
d. Consistent with 16.c. above, provide a line item cost estimate, using the enclosed format (Rehabilitation Cost Estimate) or a similar format. Prorate costs that cannot be directly associated with one use or another based on the gross floor area occupied by each use. Proration is governed by Sections 7674(c) and 7675(c) of the regulations.
e. If seismic reinforcement is planned, provide a separate line item estimate for all work directly related to the seismic reinforcement. Follow the format described in (d) above. Include costs for the seismic work itself, and

for all demolition, wall repair, and similar work directly related to the seismic work.

f. Identify the person(s) responsible for preparing the above items, and attach a resume of their experience.

17. For projects limiting occupancy in the manner described in I.B. 5. above:

a. Describe all state and local licenses required to operate the project, and list the licensing authorities:

_____

_____

_____

_____

b. List below all services to be provided project residents beyond those customarily provided in furnished apartments. Provide name, contact person, and phone number for organizations providing these services.

c. List below expected sources of funds that will be used to support the services identified above, and indicate for each (1) the expected funding amount during the first two operating years and (2) the name and phone number of a contact person.

d. If available, attach letters of intent or support from each funding source listed in (c) above. Label as "7 : SERVICES LETTER."

18. If CHRP funds are being requested for sponsor administrative costs, attach an itemized statement of expenses incurred to date and a budget for anticipated future expenses. Include a detailed narrative and explanation. Label "8 : ADMINISTRATIVE EXPENSES." If the requested administrative costs exceed 10% of the loan, include the justification required by Section 7680(d) of the regulations.

19. Attach a copy of a letter from the applicant to the head of local legislative body (city council, county board, etc.) notifying it of the application and describing the location, size, and type of proposed project, and proposed tenant population. Pursuant to section 50861(c) of the Health and Safety Code, the letter must also request that the local government submit to the Department a report on the actions it is taking to implement its housing element, including policies or programs especially targeted towards providing housing for lower-income households. (Applicants who are local governments must submit the report as part of this Attachment.) Indicate on the copy the date that the letter was mailed. Label "9 : LOCAL LETTER."

SECTION II: SITE INFORMATION

A. Current owner of record

B. Date of purchase (if owned by applicant)

C. Provide a current (no more than six months old) Preliminary Title Report (PTR) and label "10 : PTR." If the applicant is the current owner, the PTR should show them as such.

D. Include a site map clearly showing the location of the project, public transportation routes that serve it, and nearby schools, recreation facilities, shopping areas, medical facilities, other facilities, and employment in relation to the needs of the tenants. Label as "11 : MAP." In this attachment describe any adverse environmental conditions on or near the site (e.g. asbestos, 100 year flood zone, toxic wastes), any proposed mitigations, and the costs attributable to such mitigations (including handling and disposal of toxic/hazardous materials) found in Attachment 6, or include a statement that there are not adverse environmental conditions.

E. Check if any of the following is required:

1. ____ Rezoning from ____ zone to ____ zone
2. ____ General plan change
3. ____ Conditional use permit
4. ____ Environmental review
5. ____ Redevelopment Agency Approval
6. ____ HUD and/or FmHA Approval
7. Other:

F. IF APPLICABLE:

1. Date option, purchase agreement, lease, disposition and development agreement, land sales contract, or other enforceable agreement was: Entered into _____ Terminates _____

2. Attach a copy of the above agreement. Label "12: ACQUISITION AGREEMENT."

3. Complete enclosed Comparable Sales form or an appraisal of the project that was prepared within the last 12 months. Attach and label "13: COMPARABLE SALES/APPRAISAL."

SECTION III: DEVELOPMENT COSTS

For buildings with non-assisted units and/or non-residential use, prorate costs that cannot be directly attributed to one use or another based on the gross floor area occupied by each.

On a separate sheet labeled "14: DEVELOPMENT COSTS," describe the basis for each line item of cost.

	Assisted Units	*Non-assisted Units*	*Non-residential*	*Total*
A. Purchase Price	$_____	$_____	$_____	$_____
B. Refinancing	$_____	$_____	$_____	$_____
C. Construction (from I.B. 16.d. above)	$_____	$_____	$_____	$_____
D. Construction Fees	$_____	$_____	$_____	$_____
1. Local Permits & Fees	$_____	$_____	$_____	$_____
2. Architectural and Engineering Fees	$_____	$_____	$_____	$_____
3. Phase I Environmental Study	$_____	$_____	$_____	$_____
4. Other (Specify)	$_____	$_____	$_____	$_____
SUBTOTAL	$_____	$_____	$_____	$_____
E. Carrying Charges	$_____	$_____	$_____	$_____
1. Construction Loan Fees and Interest	$_____	$_____	$_____	$_____
2. Other Loan Debt Service During Construction	$_____	$_____	$_____	$_____
3. Property Taxes During Construct	$_____	$_____	$_____	$_____
4. Insurance during Construction	$_____	$_____	$_____	$_____
5. Other:	$_____	$_____	$_____	$_____
SUBTOTAL	$_____	$_____	$_____	$_____
F. General Development Costs				
1. Permanent Lender Financing Fees	$_____	$_____	$_____	$_____
2. Appraisal	$_____	$_____	$_____	$_____
3. Legal	$_____	$_____	$_____	$_____
4. Fixtures	$_____	$_____	$_____	$_____
5. Furniture	$_____	$_____	$_____	$_____
6. Rent-up Vacancy Loss	$_____	$_____	$_____	$_____
7. Other Rent-up Costs	$_____	$_____	$_____	$_____
8. Title & Escrow Fees	$_____	$_____	$_____	$_____
9. Tenant Relocation	$_____	$_____	$_____	$_____
10. Sponsor Admin.	$_____	$_____	$_____	$_____
SUBTOTAL	$_____	$_____	$_____	$_____
G. Syndication Costs				
1. Bridge Loan Interest	$_____	$_____	$_____	$_____
2. Legal	$_____	$_____	$_____	$_____
4. Financial Consultant	$_____	$_____	$_____	$_____
5. Syndication Fee and Offering Costs	$_____	$_____	$_____	$_____
6. Other	$_____	$_____	$_____	$_____
SUBTOTAL	$_____	$_____	$_____	$_____
H. TOTAL DEVELOPMENT COSTS (TDC)	$_____	$_____	$_____	$_____
I. TDC Per Unit/Bedroom (Bedroom in group/ congregate home)	$_____	$_____	$_____	$_____
J. TDC Per Sq. Ft. of Building Area	$_____	$_____	$_____	$_____

SECTION IV: SOURCES OF FUNDS

If refinancing of existing debt is proposed, provide the requested information for all existing financing and label 15: EXISTING DEBT. Include copies of all notes, deeds of trust, and regulatory agreements secured against the property. In an attachment labeled "16: PERMANENT FINANCING," provide requested information for all permanent loans (including CHRP) and all grants which will be recorded against the property after rehabilitation. If interim financing will be necessary, please provide the requested information for all interim loans and label "17: INTERIM FINANCING." Include any commitment letters or letters of intent that have been received.

Loans

1. Lender Branch: _____ Branch: ___ Phone # _____
2. Loan Terms $_____, at ___%, amortized over ___ years: Due in ___ years. ARM Loan terms: _____
3. Date of Loan _____
4. Negative Amortization: ___ yes ___ no
5. Current Unpaid Principal Balance $_____ Prepayment penalty: ___ yes ___ no __
6. Amount of balloon payment, if applicable. $_____.
7. Debt Service: P & I? _____ or Interest only? _____
Payment = $____/mo. $____/yr.
8. Status of application and approval timeline: _____
9. Order of recordation: _____ Security for loan: _____
10. Conditions of funding: _____

Grants

1. Donor: _____ Contact: _____ Phone: _____
2. Amount: $_____ Name of program, terms and limitations _____
3. Status of Application and Approval Timeline: Owner Cash Contributions for Residential Portion of Project (including gross syndication income) Amount: _____ Sources: _____

For rehabilitation-only projects, owner's estimate of current property value minus current outstanding debt: $

Sources Unsuccessfully Attempted

List any funds (loans, grants, or other) that you attempted to obtain but were unsuccessful, and the reason for denial:

NOTE: If your project will have both of the following: (1) nonresidential uses; and (2) loans beside CHRP which require periodic payments, you must allocate funds between residential and nonresidential uses. This is necessary to ensure that residential debt service payments are appropriately subtracted from residential income cash to establish the amount available for return on cash investment. (See V.D. below.) For guidance in making this calculation, please contact CHRP staff.

SECTION V: OPERATING BUDGET

A. OPERATING EXPENSES

Provide estimates for the first year following the completion of rehabilitation. On a separate sheet, labeled "18: OPERATING EXPENSES," describe the basis for the estimate for each line item.

In program-based projects described in I.B.17. above, show expenses for all direct and supportive tenant services in the residential column. Income to pay for services should be shown separate from rent as miscellaneous income.

	Residential	*Nonresidential*	*Total*
1. MANAGEMENT			
a. Sponsor Overhead	$ _____	$ _____	$ _____
b. Contractor Management Fee	$ _____	$ _____	$ _____
2. ADMINISTRATION			
a. Marketing Expense	$ _____	$ _____	$ _____
b. Audit	$ _____	$ _____	$ _____
c. Legal	$ _____	$ _____	$ _____
d. Miscellaneous	$ _____	$ _____	$ _____
e. TOTAL ADMIN.	$ _____	$ _____	$ _____
3. SPONSOR SALARIES AND BENEFITS (include value of rent discounts)			
a. On-Site or Off-Site Manager	$ _____	$ _____	$ _____
b. Asst. Manager	$ _____	$ _____	$ _____
c. Grounds & Maintenance Personnel	$ _____	$ _____	$ _____
d. Desk Clerks	$ _____	$ _____	$ _____
e. Janitorial Personnel	$ _____	$ _____	$ _____
f. Housekeepers	$ _____	$ _____	$ _____
g. Services Staff	$ _____	$ _____	$ _____
h. Other	$ _____	$ _____	$ _____
i. TOTAL SALARIES AND BENEFITS	$ _____	$ _____	$ _____
4. MAINTENANCE			
a. Supplies	$ _____	$ _____	$ _____
b. Elevator Maintenance	$ _____	$ _____	$ _____
c. Pest Control	$ _____	$ _____	$ _____
d. Grounds Contract	$ _____	$ _____	$ _____
e. Painting and Decorating (interior only)	$ _____	$ _____	$ _____
f. Other	$ _____	$ _____	$ _____
g. TOTAL MAINTENANCE	$ _____	$ _____	$ _____
5. UTILITIES NOT PAID BY TENANTS			
a. Trash Removal	$ _____	$ _____	$ _____
b. Electricity	$ _____	$ _____	$ _____
c. Water and Sewer	$ _____	$ _____	$ _____
d. Gas	$ _____	$ _____	$ _____
e. TOTAL UTILITIES	$ _____	$ _____	$ _____
6. INSURANCE Property and Liability Insurance	$ _____	$ _____	$ _____
7. TAXES			
a. Real Estate Taxes	$ _____	$ _____	$ _____
b. Business License	$ _____	$ _____	$ _____
c. TOTAL TAXES	$ _____	$ _____	$ _____
8. OTHER			
a. Food	$ _____	$ _____	$ _____
b. Support Services Contracts	$ _____	$ _____	$ _____
c.	$ _____	$ _____	$ _____
d.	$ _____	$ _____	$ _____
e.	$ _____	$ _____	$ _____
9. TOTAL OPERATING EXPENSES	$ _____	$ _____	$ _____
B. FIRST YEAR INCOME	$ _____	$ _____	$ _____

Note: Refer to Definition of Rent in Section 7671(y) of the Regulations.

For Group and Congregate Homes Only:

	No. of Occupants	*No. of Bedrooms*	*Monthly Rent Per Bedroom or Tenant (Circle One)*	*Monthly Total*
Tenants				$_____
Staff				$_____
Monthly Potential Income—Assisted Units	$_____ x 12 months = $_____			

For all Other Projects (take information from Attachment 3.):

Monthly Potential Income—Assisted Units	$_____ x 12 months = $_____
Monthly Potential Income—Nonassisted Units	$_____ x 12 months = $_____

Complete enclosed Comparable Rental Form. Attach and label "19: RENT COMPARABLES."

	Residential	Nonresidential	Total
Annual Potential Income—Assisted Units	$_____	_____	$_____
Plus: Annual Potential Income—Nonassisted Units	$_____	_____	$_____
Plus: Nonresidential Rental Income	_____	$_____	$_____
Plus: Misc. Income (laundry, phone, charges for voluntary) services, etc.	$_____	$_____	$_____
Total Gross Potential Income	$_____	$_____	$_____
Less: Vacancy Loss	($_____)	($_____)	($____)
Effective Gross Income from Operations	$_____	$_____	$_____
Less: Unpaid Rent Loss	($_____)	($_____)	($____)
Plus: Rental Subsidies or Program Service Funds	$_____	$_____	$_____
Total Effective Income	$_____	$_____	$_____

If more than 10% of total effective income is nonresidential rental income, attach information on the lease terms for at least three comparable nonresidential spaces. Attach and label "20: NONRESIDENTIAL COMPARABLES." For each

comparable nonresidential space, specify:

1. Street address.
2. Name and type of current tenant.
3. Rentable square feet.
4. Lease terms, including rent amount, whether NNN or other, annual increase provisions, and lease beginning and ending dates.
5. Number of parking spaces.
6. Vacancy rate.

C. RESERVE DEPOSITS

	Residential	*Nonresidential*	*Total*
List all reserve accounts	$_____	_____	$_____
Annual Operating Reserve Deposits	$_____	_____	$_____
Annual Replacement Reserve Deposits	$_____	$_____	$_____
TOTAL RESERVE DEPOSITS	$_____	$_____	$_____

D. FIRST YEAR CASH FLOW

	Residential	*Nonresidential*	*Total*
Total Effective Income (from B)	$_____	$_____	$_____
Less: Total Operating Expenses (line A.9)	($_____)	($_____)	($_____)
Net Operating Income	$_____	$_____	$_____
Less: CHRP Debt Service	($_____)	($_____)	($_____)
Less: Other Debt Service (Specify)	($_____)	($_____)	($_____)
Less: Other Debt Service (Specify)	($_____)	($_____)	($_____)
Less: Reserve Deposits (from C)	($_____)	($_____)	($_____)
Available for Distributions, Residual Receipts, and/or Prepayments	$_____	$_____	$_____
Distributions	($_____)	($_____)	($_____)
CHRP Prepayments	($_____)	($_____)	($_____)
Incentive Payments	$_____	$_____	$_____
Residual Receipts Payments	$_____	$_____	$_____

Debt Service Coverage Ratio (Total Net Operating Income/ Total Debt Service) _____%

SECTION VI: PROPERTY MANAGEMENT

The applicant plans to (check one):

1. Manage the project.
2. Contract with a currently unidentified management firm or other organization to operate and manage the project.
3. Contract with an identified firm.

If (1) or (3), complete and attach the enclosed Management Qualifications form, labeled "21: MANAGEMENT QUALIFICATIONS." If (2), attach a description of when and how a firm will be selected. Label "22: MANAGEMENT SELECTION."

SECTION VII: LOCAL NEED AND PROGRAMS

A. NEED

Attach appropriate parts of local housing element and other documentation, labeled "23: NEED," regarding all of the following indicators of the need for rental housing in the area of the project. Where available, provide neighborhood-level data instead of or in addition to data for larger areas.

1. Market-rate rents for typical (e.g., 1 or 2 bedroom) units.
2. Length of subsidized housing waiting lists, and length of wait for households on these lists.
3. Percent of total rental units that are substandard.
4. Loss or threatened loss of subsidized rental units due to demolition, foreclosure, or subsidy termination.

If the project will serve a special tenant group, such as households with a particular disability, include in the above attachment documentation of the need for housing serving this special tenant group in the area of the project.

B. LOCAL PROGRAMS

Check the applicable statements and attach documentation, such as applicable parts of the housing element or a letter from a local public agency, supporting the checked statement. Label "24: LOCAL PROGRAMS."

1. The jurisdiction's housing element identifies the tenant population of this project as a special needs group.
2. The project has received a commitment of financial or nonfinancial assistance from a local public agency.
3. The project has received a commitment for financial or nonfinancial assistance in support of lower income housing from a program that is not operated by a local public agency.
4. The project is eligible for financial or nonfinancial assistance under a local agency program in support of lower income housing, but has not received a commitment.
5. The project is located in a city or county that has programs in support of lower income housing, but is ineligible for these programs.
6. None of the above apply.

NOTE: The Department will determine compliance of the jurisdiction's housing element with State law pursuant to Section 7689(d)(4) of the regulations.

CERTIFICATION

I certify that the above and attached information and statements are true, accurate and complete to the best of my knowledge.

_____

(Signature of Chief Executive/Owner) (Date)

_____

(Name Typed)

For_____

(Name of Applicant)

(Applicant Letterhead)

SAMPLE RESOLUTION

NOTE: DO NOT COMPLETE IF THE APPLICANT IS AN INDIVIDUAL.

WHEREAS, The State of California, Department of Housing and Community Development, Division of Community Affairs, has issued a NOTICE OF FUNDING AVAILABILITY UNDER THE CALIFORNIA HOUSING REHABILITATION PROGRAM (CHRP); and

WHEREAS, _____ (name of applicant) is a _____ (state type of sponsor—public entity, nonprofit corporation, for-profit corporation, partnership, etc.), and has applied for a CHRP loan to assist a substandard structure; and

WHEREAS, _____ (title of officer(s) who will act on behalf of Applicant) is/are designated as the officer(s) who can act on behalf of _____ (name of Applicant) and will sign all necessary documents required to complete the application and award process.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors (or authorizing body of governmental entity) of _____ (name of Applicant) hereby authorizes _____ (Title of Officer) to apply for and accept the loan in an amount not to exceed $_____, and to execute a State of California Standard Agreement, other required State documents, and any amendments thereto.

DATE: _____ SIGNED: _____

_____

(Printed or typed Name and Title of person signing)

CALIFORNIA HOUSING REHABILITATION PROGRAM.
RENTAL COMPONENT DEVELOPMENT
QUALIFICATIONS STATEMENT

Development Name _____

Applicant _____

1. In the space below, identify the key members of the project development team. For each, indicate what their involvement is, current relationship with the sponsor, their employment status, etc., and attach a resume or qualifications statement for each.

2. Using the format shown below, describe rental housing projects similar to the proposed development that the development team owns or has developed.

* * *

Development Name _____

Address _____

Number of Units: Subsidized: ____ Market :_____ Total: _____

Subsidy Program: _____

Major Construction	Major Permanent
Lender:	Lender:
Contact:	Contact:
Phone:	Phone:

Date Major Permanent Loan was Committed: ____/____/____
Date Major Permanent Loan was
Closed and Recorded: ____/____/____
Construction Complete Date: ____/____/____
Date Substantially Occupied: ____/____/____
New Construction _____ or Rehabilitation _____
Building Type: _____

* * *

Development Name _____ Address _____

Number of Units: Subsidized: _____Market: ____Total: _____
Subsidy Program: _____

Major Construction _____	Major Permanent
Lender: _____	Lender: _____
Contact: _____	Contact: _____
Phone: _____	Phone: _____

Developed only? Yes/No Developed and currently owned? Yes/No
Didn't develop but currently owned? Yes/No
Date Major Permanent Loan was Committed: ____/____/____
Date Major Permanent Loan was Closed
and Recorded: ____/____/____
Construction Complete Date: ____/____/____
Date Substantially Occupied: ____/____/____
New Construction _____ or Rehabilitation _____ Building Type: ____

Sponsor:

(To be used as Attachment 3)
CALIFORNIA HOUSING REHABILITATION PROGRAM
OCCUPANCY AND RELOCATION

Project:

Page__ of__

Apt. or Unit No.	UNIT TYPE (SRO, Studio, 1Br, 2Br, or other*)	VACANT (Yes or No)	FORM OF TENANCY (Lease or Rent)	HOUSEHOLD DATA: Size	HOUSEHOLD DATA: Income (Very Low, Lower, Mod., or Above Mod.)	HOUSEHOLD DATA: Has Signed Waiver of Return Rights (Yes or No)	CURRENT MONTHLY RENT: Amt.	CURRENT MONTHLY RENT: Incl. Util. (Yes or No)	CURRENT MONTHLY RENT: If No, Util. Allowance**	PROPOSED MONTHLY RENT AFTER REHAB: Amt.	PROPOSED MONTHLY RENT AFTER REHAB: Inc. All Util. (Yes or No)	PROPOSED MONTHLY RENT AFTER REHAB: If No, Check Which Util. Not Included: Gas	Elec	Wat	Swr	SOURCE OF INFORMATION (tenant interview, current owner certification, etc.)

*If other, specify type.
** Contact the current local housing authority for current Housing Assistance Program (Section 8) utility allowance figures applicable to units in the project.

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(May be used as part of Attachment 6)

CALIFORNIA HOUSING REHABILITATION PROGRAM
REHABILITATION COST ESTIMATE

	Assisted Units +	Nonassisted +	Nonresidential =	Total
1. GENERAL REQUIREMENTS (permits, equipment rental, testing services, security, scaffolding, temporary utilities, final clean–up costs)	$_____	$_____	$_____	$_____
2. SITE WORK (sewage & drainage, fumigation, grading, site improvements, demolition, landscaping, asbestos and other hazardous material removal)	$_____	$_____	$_____	$_____
3. CONCRETE	$_____	$_____	$_____	$_____
4. MASONRY (trash dumpster enclosure, brick fireplaces, sand blasting, masonry restoration and/or cleaning)	$_____	$_____	$_____	$_____
5. METALS (structural metal framing, metal joists, metal fabrications, gutters & downspouts)	$_____	$_____	$_____	$_____
6. CARPENTRY (fences, cabinetry, framing, plastic laminate, fasteners & adhesives, millwork moldings)	$_____	$_____	$_____	$_____
7. THERMAL/MOISTURE PROTECTION CONTROL (insulation, roofing and siding, flashing & sheetmetal, roof vents, skylights, sealants)	$_____	$_____	$_____	$_____
8. DOORS, WINDOWS, & GLASS (includes hardward and weatherstripping)	$_____	$_____	$_____	$_____
9. FINISHES (lath, plater, & gypsum board, tile, floor and wall coverings, painting)	$_____	$_____	$_____	$_____
10. SPECIALTIES (toilet & bath accessories, fireplaces, signs, telephone enclosures, mail boxes, lockers)	$_____	$_____	$_____	$_____
11. EQUIPMENT/APPLIANCES (food service equipment, disposal units, exhaust fans, waste handling equipment)	$_____	$_____	$_____	$_____
12. FURNISHINGS (manufactured cabinets, casework, furniture, window treatments)	$_____	$_____	$_____	$_____
13. SPECIAL CONSTRUCTION (storage tanks, dumb waiters, misc.)	$_____	$_____	$_____	$_____
14. CONVEYING SYSTEMS (elevators, trash or linen chutes)	$_____	$_____	$_____	$_____
15. MECHANICAL (plumbing, gas lines, heating & A/C, bathroom fixtures, pumps, water heaters, fire extinguishing systems)	$_____	$_____	$_____	$_____
16. ELECTRICAL (lighting, detection systems, sound systems)	$_____	$_____	$_____	$_____
17. CONTINGENCY	$_____	$_____	$_____	$_____
18. OVERHEAD & PROFIT	$_____	$_____	$_____	$_____
TOTAL PROJECT REHAB COSTS:	$_____	$_____	$_____	$_____

NOTE:
(1) A separate itemized line item budget for seismic rehab. improvements (if using Prop. 84 money) must be included.

(To be used as Attachment 13)
CALIFORNIA HOUSING REHABILITATION PROGRAM
SALES COMPARABLES

Instructions: Complete only if no appraisal done in the last 12 months is available. Show information for three recently sold properties comparable to the proposed project in its before–rehabilitation condition.

	1	*2*	*3*
Address			
Distance from Project			
Price			
Date of Sale			
Approximate Building Age			
Unit Make–up:			
Studios			
1–Br			
2–Br			
3–Br +			
Total			
Vacancy Rate			
Gross Building Area			
Rentable Nonresidential Area			
Price/Square Foot			
Price/Unit			
Condition of Property			
Other Remarks			

(To be used as Attachment 19)
CALIFORNIA HOUSING REHABILITATION PROGRAM,
RENTAL COMPONENT
RENT COMPARABLE

Instructions: Do not complete for group or congregate home projects. For other projects, copy this form and provide requested information for at least three comparable market–rate rental projects.

Date of Survey: _____

Project Name/Address: _____

Manager/Management Agent: _____ Phone: _____

BUILDING SPECIFICATIONS:

Unit Type	*SRO*	*0 Bed–room*	*1 Bed–room*	*2 Bed–room*	*3 Bed–room*	*4 Bed–room*
Rental Range for Available or Recently Rented Units						
Furnished	___	___	___	___	___	___
Number of Units	___	___	___	___	___	___

RENTAL POLICIES: Lease: Yes_____ No_____

Period_____ Type_____

MOVE–IN COSTS (Fees, Deposits, First/Last Month Rent): _____

_____

Tenant Characteristics (e.g., senior, disabled): _____

Utilities Paid by Tenant: Gas _____ Electricity _____

Water ___ None ___

SECURITY DEVICES UTILIZED:

Front Desk Clerks: _____ Full–time Guards: _____

Part–time Guards: _____ Other: _____

Project Amenities: _____

Current Number of Vacancies: _____

(To be used as Attachment 21)
CALIFORNIA HOUSING REHABILITATION PROGRAM,
RENTAL COMPONENT MANAGEMENT
QUALIFICATIONS STATEMENT

1. Loan Applicant/Building Owner:
Proposed Development Name:

2. Proposed Management Organization:
Year Founded:
Year Property Management Activities were Begun:
Contact Person: Phone:

3. Type of Organization (check applicable space)
For–Profit Corporation _____ Nonprofit Corporation _____
Partnership _____ Public Agency _____
Individual _____
Other (specify) _____

4. Organization's Office Locations:
_____ Address and Phone Number
_____ Territory and Major Cities Covered
Principal Office

Office Intended to Serve this Development
Number of miles from office to proposed development

5. Current Organization Staff

a. Total number of employees of firm involved in direct management activities:

b. Attach duty statements, and, where available, resumes for any property managers and other key line–level management personnel who would be likely to participate in management activities of this development. (This can include sponsor staff and board members.)

6. Have any licenses, certificates or accreditations ever been revoked, suspended, restricted or in any manner limited or terminated for any employee, associate or principal of your organization? (Answer in the affirmative even if license has been restored.)

___YES If "YES," please provide complete details on a separate sheet.
___NO

7. Attach a schedule with the following information for all housing developments the organization has managed and currently manages:

a. Development Name and Address
b. Total Number of Units
c. Number of units subsidized through a government program. List subsidy source/program name.
d. Building Type (e.g., high–rise)
e. Date this organization began management
f. Name, address, and phone number of owner
g. Name and phone number of project leader contact person familiar with the development.
h. Type of Housing (e.g., elderly, family, cooperative, group home)
i. Current vacancy rate and physical condition of property.

8. Contract Status

a. How many property management contracts held by the Organization over the past three years have been terminated prior to their expiration dates?

_____

b. How many property management contracts held by the Organization over the past three years were not renewed upon expiration? _____

Please attach names and addresses of these developments and their mortgagors, as well as reasons and circumstances surrounding such termination(s) and non–renewals.

9. Has the Organization or any of its present personnel ever been involved in a governmental or judicial action concerning a violation of "Fair Housing" laws?

___ YES If "YES," please describe.
___ NO

10. a. Does the Organization carry at its expense fidelity bonds or other insurance for protection of owner's interests? Please describe.

_____ YES _____ NO _____ If "YES," state:
(1) Amount of Bond: $ _____
(2) Name of Bonding Co.:

b. If "NO," is the Organization eligible for a fidelity bond?
_____ YES _____ NO

c. Does the Organization carry at its expense any other insurance for protection of owner's interests? If so, what?

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11. Describe planned on-site staff for the project being applied for, including duties and work hours;

12. Describe your plans to train staff to manage the development in accordance with the requirements of the California Housing Rehabilitation Program;

13. Attach a copy of the Organization's most recent financial statement.

(c) A complete application shall consist of the following:

(1) a fully completed form HCD 779, "Rental Loan Application, California Housing Rehabilitation Program (CHRP)," 12/89, accompanied by all attachments relevant to the project under consideration; and

(2) any other information the department may require in order to determine the eligibility or feasibility of the proposed project, to evaluate or rank the proposed project, or to determine that the applicant is capable of owning, managing and rehabilitating a rental housing development.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50661, 50668.5, and 50669, Health and Safety Code.

HISTORY

1. New section filed 6-12-89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6-12-89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10-10-89. For history of former subchapter 8 (sections 7700-7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10-6-89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10-10-89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-7-90.
3. New section refiled 2-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2-7-90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-7-90.
4. Amendment of subsections (a)-(c) filed 3-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3-5-90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7-3-90.
5. Certificate of Compliance as to 2-5-90 and 3-5-90 orders including amendment transmitted to OAL 5-22-90 and filed 5-29-90 (Register 90, No. 29).

§ 7689. Project Selection.

(a) Projects shall not be considered for funding unless the application demonstrates that all of the following conditions exist:

(1) The applicant is an eligible sponsor pursuant to section 7673;

(2) The project is eligible pursuant to section 7672;

(3) All proposed uses of program funds are eligible pursuant to section 7674;

(4) The application is complete pursuant to section 7688;

(5) The requested loan amount per unit is consistent with the maximum loan amounts authorized pursuant to section 7677;

(6) The estimated loan-to-value ratio is consistent with the requirements of section 7679(a).

(b) Subject to the availability of funds, projects that are considered for funding will be rated according to subdivision (c) and ranked pursuant to subdivision (d).

(c) When the application meets the requirements of subdivision (a), the application shall be rated according to the following criteria. The application must receive a minimum of 60 percent of the total possible points in order to be ranked pursuant to subdivision (d); and zero points in either criterion (1) or (2) will disqualify the application. If either criterion (4) or (5) is not applicable to the proposed project, the total number of points possible will be reduced by the total number of points possible in that criterion; and 60 percent will be calculated on the reduced maximum possible points:

(1) The application demonstrates that the proposed project will maintain fiscal integrity and affordable rents throughout the term of the loan. (30 points)

(2) The applicant demonstrates ability or experience in owning, rehabilitating, and operating rental housing, as evidenced by the length and quality of the sponsor's experience and qualifications; the experience and qualifications of individual members of its board, its staff, or consultants. (25 points)

(3) The proposed project site is free from severe adverse environmental conditions and is accessible to public transportation, shopping, medical services, recreation, schools, and employment in relation to the needs of the project tenants. (15 points)

(4) If applicable, the application contains a relocation plan that minimizes unnecessary cost and extent of relocation. (10 points)

(5) In proposed projects targeting households in need of any direct or supportive tenant services, the proposed project provides those services suitable to the needs of the tenants. (10 points)

(6) A majority of project costs will be for the correction of health and safety defects. (10 points)

Maximum possible points: 100

(d) Where the application meets the requirements of subdivision (c), the proposed project will be ranked to determine its compliance with the following priority requirements. The application must receive a minimum of 60 percent of the total possible priority points in order to qualify for funding. If criterion (2) is not applicable to the proposed project, the total number of points possible will be reduced by the number of points in that criterion; and the 60 percent will be calculated on the reduced maximum possible points. The maximum score for each of the following six criteria is 15:

(1) Percentage of total residential units in the proposed project reserved as assisted for occupancy by very low-income households.

(2) Percentage of total residential units in the proposed project which are assisted units with three or more bedrooms (not applicable to residential hotels, motels, group homes, congregate homes, and rental housing developments occupied by the handicapped).

(3) Need in the area of the proposed project as approved by the department for the type of housing provided by the proposed project, as indicated in the local housing element and other supporting documentation by the following:

(A) Low vacancy rate for rental housing as provided by the department through the use of a methodology which ensures uniform rate calculations for all applications.

(B) Low vacancy rate in developments comparable to proposed project.

(C) Typical local market-rate rents as a high percentage of area median income.

(D) Typical comparable market-rate rents as a high percentage of area median income.

(E) Length of subsidized housing waiting lists for comparable projects and length of wait for households on these lists.

(F) High percentage of substandard rental units in the area of the proposed project.

(G) Degree to which local subsidized housing stock serving lower income households has been threatened or lost because of demolition, foreclosure, or subsidy termination.

(4) The extent to which the proposed project complements the implementation of an existing housing program in the local agency in which the proposed project is located, as demonstrated by one of the following. Points shall be allocated based upon the following criteria which are listed in descending order of priority:

(A) The local agency has a housing element in substantive compliance with the requirements of law. For the purposes of this subsection, "substantive compliance" is demonstrated by a letter from the department which sets forth findings that the housing element adopted within the timeframes required by section 65588 of the Government Code includes that substance essential to every requirement of article 10.6, commencing with section 65580, of chapter 3 of division 1, of Title 7 of the Government Code. The element identifies the special housing needs which would be served by the applicant's proposed project and the local agency is providing financial or nonfinancial assistance to the applicant's project.

(B) The local agency has a housing element in procedural compliance with the law or has an adopted plan or policy for addressing the local

housing needs. For the purposes of this subsection, "procedural compliance" means that the local agency has complied with all procedures required by law for the department's review of a draft housing element, local adoption of the element, and submission of the adopted element to the department. The local agency has a program which is providing financial or nonfinancial assistance to the applicant's proposed project.

(C) The local agency has a housing element in procedural compliance with the law or has an adopted plan or policy for addressing the local housing needs. There are programs available in the jurisdiction of the local agency in support of lower income housing programs and the programs are providing financial or nonfinancial assistance to the proposed project.

(D) The local agency has a housing element in procedural compliance with the law or has an adopted plan or policy for addressing the local housing needs. The local agency has a program which could provide financial or nonfinancial assistance to the proposed project, but which will not provide such assistance.

(E) The local agency has no housing element in compliance but has programs in support of lower income housing and is providing financial or nonfinancial assistance to the applicant's proposed project.

(F) The local agency has no housing element in compliance but has programs in support of lower income housing which could provide financial assistance to the applicant's proposed project.

(G) The local agency has programs in support of lower income housing but there is no assistance available for the applicant's proposed project.

(5) To the extent feasible, the proposed project uses available and cost–effective private, local and other funding sources in lieu of program funds.

(6) The proposed project maximizes long–term benefit for lower income households, as indicated by the following:

(A) Period of time beyond minimum term required by section 7676 that assisted units in the proposed project will be subject to rent and occupancy restrictions similar to program restrictions.

(B) The percentage that rents for assisted units in the proposed project are below the program maximum rents for these units.

Maximum possible points: 90

(e) Projects which receive 60 percent of the available points shall be recommended for funding to the director of the department. The director shall reject a recommendation for funding if it is determined that the rehabilitation work is insignificant relative to total project costs or that the project is inconsistent with the purposes of the program.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50010, 50053 and 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsections (a), (c), (d), and (e) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

Article 4. Program Operations

§ 7690. Legal Documents.

(a) The department shall enter into a Standard Agreement with the sponsor which shall encumber monies from the fund in an amount sufficient to fund the approved loan amount. The Standard Agreement shall contain the following:

(1) A description of the approved project and the permitted uses of program funds;

(2) provisions governing the amount and terms of the loan;

(3) provisions regarding the regulatory restrictions to be applied to the project through the Regulatory Agreement;

(4) provisions governing the rehabilitation work and, as applicable, the acquisition or refinancing, and the disbursement of loan proceeds;

(5) special conditions imposed as part of department approval of the project;

(6) requirements for the execution and, where appropriate, the recordation of the agreements and documents required under the program;

(7) terms and conditions required by federal or state law;

(8) requirements regarding the establishment of escrow accounts for the deposit of documents and the disbursement of loan proceeds;

(9) remedies available to the department in the event of a violation, breach, or default of the Standard Agreement to ensure compliance with program requirements for the full term of the Regulatory Agreement, including repayment of all costs of enforcement; and

(10) other provisions necessary to ensure compliance with the requirements of this program.

(b) The department shall enter into a Rehabilitation Loan Agreement with the sponsor which shall be executed prior to the disbursement of funds to the sponsor, govern the performance of the project, and include the following:

(1) The approved schedule of the project, including transfer of ownership, if any, commencement and completion of rehabilitation work, and occupancy by eligible households;

(2) provisions ensuring that the construction contract is consistent with section 7686 and other program requirements and that all financing agreements are consistent with program requirements;

(3) the approved budget for rehabilitation work and acquisition and refinancing, if applicable;

(4) provisions relating to fund disbursement;

(5) provisions relating to acquisition or refinancing agreements, preparation of rehabilitation specifications, bidding, awards to contractors, and disbursement of funds to contractors, or others;

(6) requirements for reporting to the department;

(7) terms and conditions for the inspection and monitoring of the project in order to verify compliance with the Standard Agreement and this agreement;

(8) provisions regarding tenant relocation;

(9) bonding and insurance requirements consistent with the requirements of this subchapter;

(10) conditions constituting breach of the Rehabilitation Loan Agreement and remedies available to the parties thereto, including repayment of costs of enforcement.

(11) other provisions necessary to ensure compliance with the requirements of this program.

(c) The department shall enter into a Regulatory Agreement with the sponsor for not less than the original term of the loan which shall be recorded against the project property prior to the disbursement of funds. The Regulatory Agreement shall include the following:

(1) designation of assisted units;

(2) standards for tenant selection pursuant to section 7682(a);

(3) provisions regulating the terms of the rental agreement pursuant to section 7682(b);

(4) provisions related to an annual budget approved by the department pursuant to section 7696;

(5) provisions related to a management plan pursuant to section 7694;

(6) provisions related to a rent schedule, including initial rent levels for assisted and non-assisted units pursuant to section 7683(a);

(7) conditions and procedures for permitting rent increases pursuant to section 7683(b);

(8) provisions for limitations on profit pursuant to section 7684;

(9) provision requiring annual reports, inspections and audits pursuant to section 7695;

(10) provisions regarding the withdrawal of funds from a reserve account and additional payments by the department;

(11) assurances that sponsor will maintain the rental housing development in a safe and sanitary condition in compliance with state and local housing codes and the management plan pursuant to section 7694;

(12) conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;

(13) provisions governing use and operation of unassisted units and common areas to the extent necessary to ensure compliance with program requirements;

(14) provisions authorizing enforcement of program requirements by tenants;

(15) special conditions of loan approval imposed by the department;

(16) provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the sponsor and that all sales, transfers, and encumbrances shall be subject to section 7692; and

(17) other provisions necessary to assure compliance with the requirements of the program.

(d) All loans shall be evidenced by a promissory note payable to the department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the program. The note shall be secured by a deed of trust on the project property naming the department as beneficiary or by other security acceptable to the department; this deed of trust or other security shall secure the department's financial interest in the project and the performance of sponsor's program obligations.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50668.5, 50670 and 53130, Health and Safety Code.

HISTORY

1. New section filed 6-12-89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6-12-89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10-10-89. For history of former subchapter 8 (sections 7700-7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10-6-89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10-10-89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2-7-90.
3. New section refiled 2-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2-7-90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-7-90.
4. Amendment of subsections (a)-(c) filed 3-5-90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3-5-90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7-3-90.
5. Certificate of Compliance as to 2-5-90 and 3-5-90 orders including amendment of subsections (a) and (c) transmitted to OAL 5-22-90 and filed 5-29-90 (Register 90, No. 29).

§ 7691. Disbursement of Loan Funds.

(a) The sponsor shall request funds from the department for actual expenditures in accordance with the schedule and the authorized amounts in the approved project budget in the Rehabilitation Loan Agreement. The information on any request for funds shall be subject to verification by the department. Requests shall be made on form HCD 780, "California Housing Rehabilitation Program-Rental Component, Request For Funds," dated 12/89, as set forth in subsection (b). This form is provided by the department.

(b) Text of form HCD 780, "California Housing Rehabilitation Program—Rental Component, Request for Funds," dated 12/89:

HCD 780, 12/89

CALIFORNIA HOUSING REHABILITATION PROGRAM
RENTAL COMPONENT REQUEST FOR FUNDS

1. BORROWER (Payee): _____
2. ADDRESS: _____
3. CONTRACT NUMBER: _____ $ 4. DATE: _____
5.

Approved Loan Amount	*Amount Per This Request*	*Total Amount Previously Approved*	*Balance*
$_____	$_____	$_____	$_____

6. USE OF FUNDS REQUESTED:
a. Acquisition/Refinance costs $_____
b. Rehabilitation (Construction) costs $_____
c. Non-Construction Development costs $_____
7. DRAW CHECK IN TOTAL AMOUNT OF: $ _____
8. SEND CHECK TO: Department of Housing and
Community Development
Accounting Office
P.O. Box 952050
Sacramento, CA 94252-2050
9. CERTIFICATION: I, the undersigned, do hereby certify that (1) the funds requested above were or will be used in performance of the above numbered State Contract.

Signed: _____
Title: _____

DO NOT WRITE BELOW THIS LINE

The work performed for which this request for disbursement is presented is in accordance with all provisions of Contract Number _____ between _____ and the Department of Housing and Community Development, and is hereby approved for payment.

Program Manager: _____ Date: _____

(c) Prior to the disbursement of funds, the sponsor shall provide or execute all required documents which the department determines are necessary to verify the claimed expenditure.

(d) The department may enter into agreements with other lenders or public or private entities to disburse funds and monitor construction and may make direct payments to such third party contractors on behalf of sponsors.

(e) Upon execution of required documents, compliance with all applicable conditions therein, and submittal of the sponsor's request for funds to commence the project, the department may disburse an advance payment to a sponsor which is a nonprofit corporation or government entity for payment of approved administrative costs. In order to qualify for an advance payment, the sponsor must certify that it does not have adequate funds to commence the project. The advance payment shall not exceed 25 percent of the approved administrative costs, and subsequent disbursements shall be made only to reimburse the sponsor for actual eligible costs incurred.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6-12-89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6-12-89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10-10-89. For history of former subchapter 8 (sections 7700-7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10-6-89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10-10-89 (Register 89, No. 42). A Certificate of Compliance must be trans-

mitted to OAL within 120 days or emergency language will be repealed on 2–7–90.

3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsections (a), (b), and (c) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7692. Sales, Transfers, and Encumbrances.

(a) A sponsor shall not sell, assign, transfer, or convey the rental housing development, or any interest therein or portion thereof, without the express prior written approval of the department. A sale, transfer or conveyance shall be approved only if all of the following requirements are met:

(1) the existing sponsor is in compliance with the Regulatory Agreement or the sale, transfer or conveyance will result in the cure of any existing violations;

(2) the successor–in–interest to the sponsor agrees to assume all obligations of the existing sponsor pursuant to the Regulatory Agreement and this program;

(3) the successor–in–interest is an eligible sponsor and demonstrates to the department's satisfaction that it can successfully own and operate the rental housing development and comply with all program requirements; and

(4) no terms of the sale, transfer, or conveyance jeopardize either the department's security or the successor's ability to comply with all program requirements.

(b) The Department may grant its approval of such sale, assignment, transfer, or conveyance subject to such terms and conditions as may be necessary to preserve or establish the fiscal integrity of the project. Such conditions may include:

(1) the deposit of sales proceeds, or a portion thereof, to maintain required reserves, or to offset negative cash flow;

(2) the recapture of syndication proceeds or other funds in accordance with special conditions included in the Standard Agreement or any other agreement executed by the sponsor;

(3) such conditions as may be necessary to ensure compliance with the program requirements.

(c) The sponsor shall not encumber, pledge, or hypothecate the rental housing development, or any interest therein or portion thereof, or allow any lien, charge, or assessment against the rental housing development without the prior written approval of the department. The department may permit refinancing of existing liens or additional financing secured by the rental housing development to the extent necessary to maintain or improve the fiscal integrity of the project or to maintain affordable rents.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7693. Defaults and Loan Cancellations.

(a) In the event of a breach or violation by the sponsor of any of the provisions of the Regulatory Agreement, the Standard Agreement, the Rehabilitation Loan Agreement, the promissory note, or the deed of trust, or any other agreement pertaining to the project, the department may give written notice to the sponsor to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the department within the specified time period, the department, at its option, may declare a default under the relevant document and may seek legal remedies for the default including the following:

(1) The department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amount in full, the department may proceed with a foreclosure in accordance with the provisions of the deed of trust and state law regarding foreclosures.

(2) The department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the project or operate the rental housing development in accordance with program requirements.

(3) The department may seek such other remedies as may be available under the relevant agreement or any law.

(b) In the event that the breach or violation involves charging tenants rent or other charges in excess of those permitted under the Regulatory Agreement, the department may demand the return of such excess rents or other charges to the affected households. In any action to enforce the provisions of the Regulatory Agreement, the department may seek as additional remedy, the repayment of such overcharges.

(c) Loan commitments may be cancelled by the department under any of the following conditions:

(1) the objectives and requirements of the program cannot be met;

(2) implementation cannot proceed in a timely fashion in accordance with the approved plans and schedules;

(3) special conditions have not been fulfilled within required time periods;

(4) the rehabilitation work has not commenced within one year of the date of loan approval;

(5) there has been a material change in the principals or management of the sponsor or project, which was not approved by the department.

The department, in writing and upon demonstration by the sponsor of good cause, may extend the date for compliance with any of the conditions in this subdivision.

(d) Upon receipt of a notice of intent to cancel the loan from the department, the sponsor shall have the right to appeal to the Director.

(e) The department may use amounts available in the fund pursuant to section 7697(b) for the purpose of curing, or avoiding, a sponsor's defaults on the terms of any loan or other obligation which jeopardize completion of rehabilitation, the fiscal integrity of a project or the department's security in the project. Such defaults include defaults or impending defaults in payments on mortgages, failures to pay taxes, or failures to maintain insurance or required operating reserves. The payment or advance of funds by the department pursuant to this subdivision shall be solely within the discretion of the department and no sponsor shall be entitled to or have any right to payment of these funds. All funds so advanced shall be part of the deferred payment loan to the sponsor and, upon demand, due and payable to the department. Where it becomes necessary to use the fund for the purpose of assisting a project to avoid threatened defaults or foreclosures, the department shall take those actions necessary, including but not limited to, foreclosure or forced sale of the project property, to prevent similar occurrences and insure compliance with the terms of the applicable agreements.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsection (e) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7694. Management and Maintenance.

(a) The sponsor shall be responsible for all management functions of the rental housing development including selection of the tenants, annual recertification of household income and size, evictions, and collection of rent.

(b) The sponsor is responsible for all repair and maintenance functions of the rental housing development, including ordinary maintenance and replacement of capital items. The sponsor shall maintain residential units, nonresidential space and common areas in accordance with local health, building, and housing codes and the management plan.

(c) The sponsor, with the prior approval of the department, may contract with a management agent for the performance of the services or duties required in subdivision (a) and (b). However, such an arrangement does not relieve the sponsor of responsibility for proper performance of these duties. Such contract shall contain a provision allowing the sponsor to terminate the contract upon thirty days' notice. The sponsor shall terminate said contract as directed by the department upon determination that management does not comply with program requirements.

(d) The sponsor shall develop a management plan subject to department approval prior to loan closing. The plan shall be consistent with this subchapter and shall include the following:

(1) the role and responsibility of the sponsor and its delegation of authority, if any, to the managing agent;

(2) personnel policy and staffing arrangements;

(3) plans and procedures for publicizing and achieving early and continued occupancy;

(4) procedures for determining tenant eligibility and for certifying and annually recertifying household income and size;

(5) plans for carrying out an effective maintenance and repair program;

(6) rent collection policies and procedures;

(7) program for maintaining adequate accounting records and handling necessary forms and vouchers;

(8) plans for tenant–management relations;

(9) management agreement, if any;

(10) description of direct or supportive tenant services, if any; and

(11) provisions for periodic update of management plan.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.
4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.
5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsections (b) and (d) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7695. Reporting and Inspections.

(a) No later than 60 days after the end of each fiscal year, the sponsor shall report to the department on form HCD 781, "California Housing Rehabilitation Program Rental Component, Annual Report," dated 12/89, as set forth in subsection (b). This form is provided by the department.

HCD 781 12/89

CALIFORNIA HOUSING REHABILITATION PROGRAM
RENTAL COMPONENT
ANNUAL REPORT

Sponsor: _____
Project Name: _____
Project Address: _____
Contract Number: _____

I hereby submit the following items for the fiscal year beginning _____ and ending _____.

[ ] CHRP Interest Payment in the amount of $_____.
[ ] Principal Prepayment in the amount of $_____.
[ ] Residual Receipts Payment in the amount of $_____
[ ] Financial Statement.
[ ] Income & Expense Statements (plus attachments).
[ ] Report on Account Balances.
[ ] Management Report)plus attachments.
[ ] Copy of current Hazard Insurance Policy.

CERTIFICATION: I hereby certify that I am responsible for the above submittals and, furthermore, to the best of my knowledge, the information included is true and complete.

By: _____
Signature

_____
Name and Title

_____ _____
Date Phone Number

At: _____
City

Contract No.: _____
Fiscal Year: _____

A. PROJECT INCOME:

1. a. Attach an Occupancy and Rent Schedule for all residential rents labeled A.1. using the format attached. (See example attached.) Also attach another schedule showing the nonresidential occupancy and rent schedules if CHRP money was used to rehabilitate the nonresidential portion of the building.

2. Report of Actual Annual Income:

	Residential Income	*Non–Residential Income*	*Total Income*
a. Rental Income	$_____	$_____	$_____
b. Rent Subsidies	$_____	$_____	$_____
c. Laundry Income	$_____	$_____	$_____
d. Interest Income	$_____	$_____	$_____
e. Security Deposits Withheld	$_____	$_____	$_____
f. Other: _____	$_____	$_____	$_____
g. Total Income:	$_____	$_____	$_____

B. OPERATING EXPENSES: Attach a description of each expense and relevant invoices, payrolls, etc.

	Residential +	*Non-Residential* =	*Total*
1. MANAGEMENT			
a. Sponsor's Overhead	$_____	$_____	_____
b. Contracted Management fee	$_____	$_____	_____
c. Total Management	$_____	$_____	$_____
2. ADMINISTRATION			
a. Marketing Expense	$_____	$_____	_____
b. Audit	$_____	$_____	_____
c. Legal	$_____	$_____	_____
d. Miscellaneous	$_____	$_____	_____
e. TOTAL	$_____	$_____	$_____
3. SPONSORS SALARIES AND BENEFITS (include value of rent discounts)			
a. On-/Off Site Manager	$_____	$_____	_____
b. Assistant Manager	$_____	$_____	_____
c. Assistant Manager	$_____	$_____	_____
d. Grounds & Maintenance Personnel	$_____	$_____	_____
e. Janitorial Personnel	$_____	$_____	_____
f. Housekeepers	$_____	$_____	_____
g. Service Staff	$_____	$_____	_____
h. Other (specify)	$_____	$_____	_____
i. TOTAL SALARIES AND BENEFITS	$_____	$_____	$_____
4. MAINTENANCE			
a. Supplies	$_____	$_____	_____
b. Elevator Maintenance	$_____	$_____	_____
c. Pest Control	$_____	$_____	_____
d. Grounds Contract	$_____	$_____	_____
e. Painting & Decorating (Interior Only)	$_____	$_____	_____
f. Other:	$_____	$_____	_____
g. TOTAL MAINTENANCE	$_____	$_____	$_____
5. UTILITIES (Not paid for by tenants)			
a. Trash Removal	$_____	$_____	_____
b. Electricity	$_____	$_____	_____
c. Water and Sewer	$_____	$_____	_____
d. Gas	$_____	$_____	_____
e. TOTAL	$_____	$_____	$_____
6. INSURANCE			
a. Property and Liability Insurance	$_____	$_____	$_____
7. TAXES			
a. Real Estate Taxes	$_____	$_____	_____
b. Business Licenses	$_____	$_____	_____
c. TOTAL TAXES	$_____	$_____	$_____
8. OTHER			
a. Food	$_____	$_____	_____
b. Support Services	$_____	$_____	_____
c.	$_____	$_____	_____
d.	$_____	$_____	_____
e. TOTAL OTHER	$_____	$_____	$_____
9. DEPOSITS TO RESERVE ACCOUNT			
a. Replacement Reserve	$_____	$_____	_____
b. Operating Reserves	$_____	$_____	_____
c. Other	$_____	$_____	_____
d. TOTAL	$_____	$_____	$_____
10. DEBT SERVICE			
a. CHRP (Attached)	$_____	$_____	_____
b.	$_____	$_____	_____
c.	$_____	$_____	_____
d. TOTAL DEBT SERVICE	$_____	$_____	$_____
11. TOTAL OPERATING, RESERVE & DEBT SERVICE EXPENSES	$_____	$_____	$_____

C. PROJECT SUMMARY

1. Total Income (from A.1.g.)	$_____	$_____	$_____
2. Less Total Operating, Reserve & Debt Service Expenses (from B.11.)	($_____)	($_____)	($_____)
3. Net Cash Available for Distributions or Payments	$_____	$_____	$_____
4. Less Distribution			
5. Less Loan Prepayments (Attached)			
6. Less Incentive Payments			
7. Residual Receipts (Attached			

D. REPORT ON ACCOUNT BALANCES:
(copies of Bank Statements should be attached.) Only complete the nonresidential summary if CHRP funds were used for any of the nonresidential rehabilitation. Copies of invoices or explanations supporting all withdrawals from the Replacement Reserve or Operating Reserve Accounts must be attached.

Residential	*Beginning Balance*	*Budgeted Deposits*	*Actual Deposits**	*Withdrawals*	*Interest Earned***	*Net Increase (Decrease)*	*Ending Balance*
1. Replacement Reserves:	$_____	$_____	$_____	$_____	$_____	$_____	$_____
2. Operating Reserves:	_____	_____	_____	_____	_____	_____	_____
3. Security Deposits:	_____	_____	_____	_____	_____	_____	_____
4. Operating Account:	_____	_____	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____	_____	_____

Nonresidential	*Beginning Balance*	*Budgeted Deposits*	*Actual Deposits**	*Withdrawals*	*Interest Earned***	*Net Increase (Decrease)*	*Ending Balance*
1. Replacement Reserves:	$_____	$_____	$_____	$_____	$_____	$_____	$_____
2. Operating Reserves:	_____	_____	_____	_____	_____	_____	_____
3. Security Deposits:	_____	_____	_____	_____	_____	_____	_____
4. Operating Account:	_____	_____	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____	_____	_____

*"Actual Deposits" should reflect the same amount as shown under Section B. Operating Expenses, item 9.

***"Interest Earned" should reflect the same amount as shown under Section A. Project Income, item 2.d.

E. CHRP Interest Payment Summary

(1) Interest due on CHRP loan for this fiscal year $_____

(2) Less interest payment made on CHRP loan for this fiscal year (check attached) $_____

(3) Equals interest deferred for this fiscal year = $_____

(4) Plus interest deferred from previous fiscal years + $_____

(5) Less interest payment made on CHRP loan for prev. fiscal years (attached) – $_____

(6) Equals total outstanding CHRP interest owed HCD as of = $_____

F. MANAGEMENT REPORT: (Attach additional comments if necessary).

1. Describe any notice or citation for violation of local housing codes:

2. Describe any major purchases or maintenance work undertaken in the reporting year.

3. Describe any major repair or maintenance work still needed:

4. Number of evictions during the year? _____ Explain reasons for each eviction and show unit number for each

5. Determine vacancy rate: (a) Total number of units:
(a) Total number of units: x 12 months = unit months
(b) Number of vacant units during the year:
(c) Number of months vacant:
(b) _____ x (c) _____ = _____ (d)
(d) _____ ÷ (a) _____ = _____% vacancy rate

6. Describe the nature of vacancies that occurred:

7. Describe any problems which arose in filling vacancies and steps taken to address them.

8. How many names are currently on the waiting list?____

9. Has the project experienced any problems with nonpayment of rent, bad debts, etc.? If so, describe and indicate steps taken to alleviate such problems.

10. Describe any additional management problems that occurred during the past fiscal year, and steps taken to solve management problems.

11. Have there been any changes in property management staff responsible for the project? If so, identify new staff and indicate their qualifications.

A.1. Occupancy and Rent Schedule

Unit Number Unit Dsgntn	Unit Type	(A) Market Rent (or Basic Rent)	(B) Approved CHRP Rent	(C) Subsidy (if any) over CHRP Rent	(D) Tenant's Portion of Rent	(E) No. of Months Occupd	(F) Total Rent Rec'd (BxE)	(G) Total Rent Sbsdy (CxE)	For CHRP Assisted Units: Gross Hsehld Income	For CHRP Assisted Units: No. of Occupants

(c) At any time during the term of the loan and upon reasonable notice, the department may enter and inspect the physical premises and inspect all accounting records pertaining to the rehabilitation or operation of the rental housing development.

(d) The department may perform or cause to be performed audits of any and all phases of the sponsor's activities related to the project. At the department's request, the sponsor shall provide, at its own expenses, an audit of the financial condition of the project prepared by a certified public accountant.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.
2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.
3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative

2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.

4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.

5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsections (a) and (b) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7696. Operating Budget.

(a) Prior to loan closing, the sponsor shall provide the department an initial operating budget for its approval. Such budget shall show all anticipated income and expenses for management, operations, and maintenance for the first year and the projected debt service coverage ratio.

(b) Sixty days prior to the end of each fiscal year, the sponsor shall submit to the department a proposed operating budget for its approval. The proposed operating budget shall set forth the sponsor's estimate of the project's operating income, operating expenses, debt service for the upcoming year, and any proposed rent increases pursuant to section 7683.

(c) The initial operating budget and subsequent proposed operating budgets shall include:

(1) annual deposits to a replacement reserve account for capital improvements such as replacing structural elements, furniture, fixtures, or equipment of the rental housing development which are reasonably required to preserve the project; and

(2) an operating reserve account in an amount sufficient to offset operating shortfalls.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Sections 50668.5 and 50670, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.

2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.

3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.

4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.

5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders including amendment of subsections (b) and (c) transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7697. Residual Receipts Account.

(a) The department shall establish a residual receipts account in the fund. Two percent of any allocation made to the fund shall be deposited into the account. Excess funds returned to the department pursuant to section 7684(f) shall be deposited into the account to replace the allocated funds in the account on a dollar for dollar basis. Funds so replaced shall remain in the fund available for loans pursuant to this subchapter.

(b) The department shall maintain a reserve in the account in an amount equal to two percent of all allocations to the fund for the purpose of avoiding or curing defaults pursuant to section 7693(e).

(c) When funds in the account exceed the two percent default reserve required pursuant to subdivision (b), the department may advance funds from the account for the following:

(1) payment of the cost of unforeseen capital improvements necessary to preserve fiscal integrity and maintain affordable rents; and

(2) reduction of rents of assisted units.

(d) All funds advanced pursuant to subdivision (c) shall be part of the deferred payment loan to the sponsor and subject to the same interest rate and terms of repayment.

NOTE: Authority cited: Section 50668.5, Health and Safety Code. Reference: Section 50668.5, Health and Safety Code.

HISTORY

1. New section filed 6–12–89 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 6–12–89 (Register 89, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or the regulation will be repealed on 10–10–89. For history of former subchapter 8 (sections 7700–7714.5, not consecutive), see Register 85, No. 33.

2. New section refiled 10–6–89 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 10–10–89 (Register 89, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–7–90.

3. New section refiled 2–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g) and Government Code section 11346.1(h); operative 2–7–90 (Register 90, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–7–90.

4. Amendment of subsections (a)–(c) filed 3–5–90 as an emergency pursuant to Health and Safety Code section 50668.5(g); operative 3–5–90 (Register 90, No. 12). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–3–90.

5. Certificate of Compliance as to 2–5–90 and 3–5–90 orders transmitted to OAL 5–22–90 and filed 5–29–90 (Register 90, No. 29).

§ 7700. Introduction.

NOTE: Authority cited: Sections 50406(n) and 50701, Health and Safety Code. Reference: Sections 50700–50706, Health and Safety Code.

HISTORY

1. Repealer filed 8–13–82; effective thirtieth day thereafter (Register 85, No. 33). For prior history, see Registers 84, No. 40; 83, No. 1; 82, No. 25; 82, No. 17; and 82, No. 2.

§ 7702. Definitions.

NOTE: Authority cited: Sections 50406(n) and 50701, Health and Safety Code. Reference: Sections 50700–50706, Health and Safety Code.

HISTORY

1. Repealer filed 8–13–85; effective thirtieth day thereafter (Register 85, No. 33). For prior history, see Registers 84, No. 40; 83, No. 1; 82, No. 25; 82, No. 17; and 82, No. 2.

§ 7704. Program Requirements.

HISTORY

Authority cited: Sections 50406(n) and 50701, Health and Safety Code. Reference: Sections 50700–50703, Health and Safety Code; and Section 7261.6, Government Code.

HISTORY

1. Repealer filed 8–13–85; effective thirtieth day thereafter (Register 85, No. 33). For prior history, see Registers 84, No. 40; 83, No. 1; 82, No. 25; 82, No. 17; and 82, No. 2.

§ 7706. Loan Requirements.

NOTE: Authority cited: Sections 50406(n) and 50701, Health and Safety Code. Reference: Sections 50700–50706, Health and Safety Code.

HISTORY

1. Repealer filed 8–13–85; effective thirtieth day thereafter (Register 85, No. 33). For prior history, see Registers 84, No. 40; 83, No. 1; 82, No. 25; 82, No. 17; and 82, No. 2.

§ 7708. Disbursements for Specified Sites.

NOTE: Authority cited: Sections 50406(n) and 50701, Health and Safety Code. Reference: Sections 50701, 50702 and 50704, Health and Safety Code.

HISTORY

1. Repealer filed 8–13–85; effective thirtieth day thereafter (Register 85, No. 33). For prior history, see Registers 84, No. 40; 83, No. 1; No. 25; 82, No. 17; and 82, No. 2.

§ 7710. Disbursements for Unspecified Sites.

NOTE: Authority cited: Sections 50406(n) and 50701, Health and Safety Code. Reference: Sections 50701, and 50703, Health and Safety Code.

HISTORY

1. Renumbering and amendment of Section 7710 to Section 7010 filed 8-13-85; effective thirtieth day thereafter (Register 85, No. 33). For prior history, see Registers 84, No. 40; 83, No. 1; 82, No. 25; 82, No. 17; and 82, No. 2.

§ 7712. Reports and Term.

NOTE: Authority cited: Sections 50406(n) and 50701, Health and Safety Code. Reference: Sections 50701, 50703 and 50706 Health and Safety Code.

HISTORY

1. Repealer filed 8–13–85; effective thirtieth day thereafter (Register 85, No. 33). For prior history, see Registers 84, No. 40; 83, No. 1; 82, No. 25; 82, No. 17; and 82, No. 2.

§ 7714. Termination and Repayment.

NOTE: Authority cited: Sections 50406(n) and 50701, Health and Safety Code. Reference: Sections 50701–50704, Health and Safety Code.

HISTORY

1. Repealer filed 8–13–85; effective thirtieth day thereafter (Register 85, No. 33). For prior history, see Registers 84, No. 40; 83, No. 1; 82, No. 25; 82, No. 17; and 82, No. 2.

§ 7714.5. Application Review.

NOTE: Authority cited: Sections 50407 (n) and 50701, Health and Safety Code. Reference: Sections 50701–50704, Health and Safety Code.

HISTORY

1. Repealer filed 8–13–85; effective thirtieth day thereafter (Register 85, No. 33). For prior history, see Registers 84, No. 40; 83, No. 1; 82, No. 25; 82, No. 17; and 82, No. 2.

Subchapter 9. CalHome Program Requirements

Article 1. General

§ 7715. Purpose and Scope.

(a) These regulations implement and interpret Chapter 6 (commencing with Section 50650) of Part 2 of Division 31, Health and Safety Code, which establishes the CalHome Program.

(b) These regulations establish terms, conditions and procedures for the award and disbursement of funds allocated to the CalHome Program.

NOTE: Authority cited: Sections 50406(n), 50650.2 and 50650.7, Health and Safety Code. Reference: Sections 50650.3, 50650.4, 50650.5 and 50650.7, Health and Safety Code.

HISTORY

1. New subchapter 9 (articles 1–10, sections 7715–7756), article 1 (sections 7715–7716) and section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40). For prior history of Subchapter 9, articles 1–4, sections 7715–7742, see Register 96, No. 12.

§ 7716. Definitions.

In addition to the definitions found in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code, the following definitions shall apply to this subchapter. References to code sections refer to the sections of these regulations unless otherwise noted.

(a) "Affordable" as it describes a specific financial obligation, means that obligation can be paid by the person or household, along with all of other financial responsibilities, without endangering the financial stability of the household.

(b) "After–rehabilitation value" means the appraised value of the property including completed rehabilitation work.

(c) "Applicant" is the locality or nonprofit corporation, which submits an application to the Department to operate a local program, develop a homeownership project, or provide self–help technical assistance to a homeownership project.

(d) "Assisted units" means units purchased or rehabilitated with a loan funded pursuant to this subchapter. Assisted units shall also include units occupied by a seeker successfully matched to a homeowner provider under a shared housing local program or a household provided with self–help technical assistance in a project funded pursuant to this subchapter.

(e) "Back–end ratio" means the ratio between monthly household income and monthly housing costs plus all payments on long–term installment debt.

(f) "Borrower" means a homebuyer(s) or existing homeowner(s) who has or will receive a CalHome Program loan made from a local program funded pursuant to this subchapter, signs the promissory note, and is or will be the homeowner of the property being financed.

(g) "Community revitalization" A program or project will be considered to contribute towards community revitalization if all units to be assisted with CalHome Program funds are, or will be, located within a federally defined Qualified Census Tract or a designated redevelopment area under the jurisdiction of a local redevelopment agency.

(h) "Construction skills training program" means an existing program that trains youth 16 to 24 years old in construction skills.

(i) "Department" means the Department of Housing and Community Development.

(j) "Developer" means a locality or nonprofit corporation that owns the project land, obtains the project financing and develops the homeownership project.

(k) "Developer borrower" means a developer who receives a CalHome loan pursuant to this subchapter for the development of a project involving multiple homeownership units.

(l) "Eligible household" means a low– or very low–income household that is: a first–time homebuyer; an existing owner–occupant of property in need of rehabilitation; a homeowner participant in a shared housing local program; or a first–time homebuyer participant in a self–help construction project. The eligible household shall occupy, or intend to occupy, the property as their principal residence and shall not lease or rent the property (except in the case of a homeowner provider assisted through a CalHome shared housing program in renting a room in their home to a seeker).

(m) "First–time homebuyer" means a borrower(s) who has not owned a home during the three–year period before the purchase of a home with CalHome assistance, except that the following individual or individuals may not be excluded from consideration as a first–time homebuyer under this definition:

(1) a displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full–time basis as a member of the labor force for a consecutive twelve–month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family;

(2) a single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or

(3) an individual or individuals who owns or owned, as a principal residence during the three–year period before the purchase of a home with CalHome assistance, a dwelling unit whose structure is:

(A) not permanently affixed to a permanent foundation in accordance with local or state regulations; or

(B) not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(n) "Front–end ratio" means the ratio between monthly household income and monthly housing cost, including first mortgage principal, interest, taxes and insurance.

(o) "Grant" means an award of funds made from the Department to eligible localities or nonprofit corporations to operate local programs or to provide self–help technical assistance to a project pursuant to this subchapter. In the case of a development loan, the portion of that loan which is used to provide mortgage assistance to qualified first–time homebuyers is converted to a grant.

(p) "Gross income" means all income as defined in California Code of Regulations (CCR) Title 25, Section 6914.

(q) "Homebuyer education" means a specific course of instruction, designed pursuant to Section 7722, to educate first–time homebuyers regarding various aspects of purchasing and maintaining a home.

(r) "Homeowner provider" means a low-income person(s) currently residing in a home they own and occupy as a principal place of residence, who desires to find a tenant to share their residence.

(s) "Homeownership" means:

(1) for mortgage assistance: fee simple title on real property or a leasehold interest on real property that enables the lessee to make improvements on and encumber the property and has a term sufficient to secure the CalHome loan, ownership of a manufactured housing unit located on a rented space in a mobilehome park; or

(2) for owner-occupied rehabilitation: fee simple title; or a leasehold interest that enables the lessee to make improvements on and encumber the property and has a term sufficient to secure the CalHome loan; or ownership of a manufactured housing unit located on a rented space in a mobilehome park.

(3) a share interest in a limited equity housing cooperative; or

(4) an interest in a mutual housing project that meets the definition in Section 7716(gg).

(t) "Homeownership development project" means new construction on a site, including subdivisions, or scattered sites, that is under common ownership, development financing and construction.

(u) "Household" means one or more persons occupying the same housing unit.

(v) "Loan-to-value-ratio" means the ratio between the amount of all indebtedness liened, or to be liened, against a property and the appraised value of the property securing the liens.

(w) "Local public agency", or "locality" means a city, county, or city and county, or a local public entity within the state of California that has been delegated substantially all of the locality's housing functions (hereinafter collectively referred to as a "locality"). For the purpose of this definition, "housing functions" means engaging in or assisting in the development or operation of housing for persons of low or moderate income. Such delegation shall have been made prior to the issuance of the Notice of Funding Availability under which the local public entity is applying.

(x) "Local program" means a first-time homebuyer mortgage assistance loan program or an owner-occupant rehabilitation loan program to provide CalHome Program loans for the acquisition and/or rehabilitation of property; or a shared housing program operated by a locality or nonprofit corporation pursuant to the provisions of this subchapter.

(y) "Lower-or low-income household" means the same as defined in Section 50079.5 of the Health and Safety Code.

(z) "Manufactured housing" means a mobilehome as defined by Section 18007 of the Health and Safety Code. A manufactured home can be either in a rental mobile home park, on leased land, or on property owned by the occupant. It can either be on a permanent foundation or a foundation system. In these regulations, with respect to manufactured housing not installed on a permanent foundation, terms that typically apply to conventionally constructed housing or to loans secured by real property shall be given the appropriate analogous meaning used in the manufactured housing industry. For example, rather than holding fee title to the property, a manufactured home owner is listed as the registered owner on the certificate of title issued by the Department.

(aa) "Maximum Sales Price/Value Limit" is the maximum allowable sales price or the maximum after-rehab value of a home assisted with a CalHome Program loan. This shall be set at 100% of the current median sales price of a single family home in the county in which the CalHome Program or project is located.

(bb) "Monthly housing cost" means the average of the estimated costs for the next twelve months for a homebuyer or owner-occupant and shall include all of the following associated with that housing unit:

(1) principal and interest on a mortgage loan including any rehabilitation loans, and any mortgage insurance fees associated therewith;

(2) property taxes and assessments;

(3) fire and casualty insurance, including flood insurance when applicable, covering replacement value of property improvements;

(4) homeowner association fees or dues, if applicable;

(5) lease payments, if the housing unit is situated on leased land; and

(6) space rent, if a manufactured housing unit is situated in a mobilehome park.

(cc) "Mortgage" means a deed of trust which is used to secure a lien on real property or, in the case of manufactured housing, a security instrument sufficient to legally perfect a security interest in the home.

(dd) "Mortgage assistance" means permanent financing used toward homebuyer costs, up to a maximum limit as specified in the Department's NOFA. Another term for mortgage assistance is "downpayment assistance".

(ee) "Mortgage financing" means a long-term, permanent loan, provided by a mortgage lender, which is secured by a deed of trust, or, in the case of manufactured housing, a security instrument sufficient to perfect a security interest in the home.

(ff) "Mortgage lender" means a bank or trust company, mortgage banker, mortgage broker, federal or state chartered savings and loan association, State or Federal governmental agency or credit union whose principal business is to originate, process, close and service loans for the purchase or development (if appropriate) of property. "Mortgage lender" also includes nationwide institutions whose primary purpose is to develop housing and provide first mortgage financing to low-income purchasers of the developed housing.

(gg) "Mutual housing" means a multi-unit homeownership development that allows each resident a vested financial interest that has a determinable market value, is divisible and gives the owner an exclusive right to occupy a designated unit for an indefinite period.

(hh) "NOFA" is the acronym for Notice of Funding Availability. The NOFA is the document used by the department to announce that funds are available and applications may be submitted.

(ii) "Nonprofit corporation" means a corporation as defined in Section 50091 of the Health and Safety Code.

(jj) "Recipient" means a locality or nonprofit corporation that receives an award of funds from the CalHome Program.

(kk) "Refinance" means to pay off all or a portion of existing debt secured by the property from the proceeds of a CalHome Program loan or other financing also secured by the property.

(ll) "Rehabilitation" means, in addition to the definition in Health and Safety Code, Section 50096 and Section 50097, repairs and improvements to a manufactured home necessary to correct any condition causing the home to be substandard pursuant to CCR, Title 25, Section 1704. Rehabilitation includes reconstruction. Rehabilitation also includes room additions to prevent overcrowding. Rehabilitation also means repairs and improvements which are necessary to meet any locally-adopted standards used in local rehabilitation programs. Rehabilitation does not include replacement of personal property.

(mm) "Reuse account" means an account established pursuant Section 7724.

(nn) "Rural area" means the same as defined in Health and Safety Code, Section 50101.

(oo) "Seeker" means a person who desires to be placed as a tenant in a home that is owner-occupied.

(pp) "Self-help construction" means owner-building as defined in Health and Safety Code, Section 50692 and may include mutual self-help housing as defined in Health and Safety Code, Section 50692(b).

(qq) "Self-help technical assistance" means conducting and administering a project of technical or supervisory assistance, which will aid eligible households in carrying out owner-builder housing efforts.

(rr) "Shared housing" means a local program designed to preserve homeownership by matching a homeowner provider with a seeker.

(ss) "Shared housing match" means a seeker who has been successfully placed as a tenant into the residence of a homeowner provider.

(tt) "Shared housing technical assistance" means the provision of services required to match a homeowner provider with a seeker.

(uu) "Site control" means control of a parcel of real property as described in Section 7744.

(vv) "Standard Agreement" means the contract entered into between the Department and a Recipient pursuant to Section 7752(a).

(ww) "Volunteer labor" means skilled or unskilled construction labor provided without remuneration.

NOTE: Authority cited: Sections 50406(n), 50650.2 and 50650.7, Health and Safety Code. Reference: Sections 50650.3, 50650.4, 50650.5 and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 2. General Program Requirements

§ 7717. General Applicant Eligibility Requirements.

(a) Geographic Restrictions:

(1) A locality shall only be eligible to apply for an award of CalHome funds for a local program or project located within its jurisdictional boundaries.

(2) A nonprofit corporation shall only be eligible to apply for an award of CalHome funds for a program or project within a county in which it has developed a project or operated a housing program within the past four years or in a county for which the nonprofit corporation has an existing 523 Self–Help Technical Assistance Grant Agreement with United States Department of Agriculture (USDA).

(b) Stability and capacity:

(1) To be eligible for funding, the applicant shall demonstrate to the Department's satisfaction that it has sufficient organizational stability and capacity to carry out the activity for which it is requesting funds.

(2) In order to demonstrate organizational stability, the applicant shall have been operating as a housing developer or housing program administrator for a minimum of two years prior to the date of application.

(3) A nonprofit corporation must be a corporation whose exempt purposes for the two years prior to the date of application have included the activity for which it is applying.

(4) A nonprofit corporation shall also demonstrate financial stability to the Department's satisfaction through audited financial statements submitted for Department review as part of its application for funding.

(5) An applicant shall also meet the additional stability and capacity requirements set forth in these regulations for the specific activity for which it is applying.

NOTE: Authority cited: Sections 50406(n), 50650.2 and 50650.7, Health and Safety Code. Reference: Sections 50650.3, 50650.4, 50650.5 and 50650.7, Health and Safety Code.

HISTORY

1. New article 2 (sections 7717–7724) and section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7718. Eligible Activities.

(a) The Department may make grants to localities or nonprofit corporations to fund local programs undertaking:

(1) provision of CalHome Program loans to first–time homebuyers for mortgage assistance;

(2) provision of CalHome Program loans to owner–occupants for rehabilitation, including rehabilitation of manufactured homes not on a permanent foundation;

(3) provision of technical assistance to self–help housing projects in which the applicant organization will be directly providing the services required in Section 7738, Self–Help Project Administration Assistance Requirements; or

(4) provision of technical assistance for shared housing programs for which the applicant organization will be directly providing the services required in Section 7741, Shared Housing Program Administration Requirements.

(b) The Department may make construction period loans to localities or nonprofit corporations for development of new homeownership projects or make permanent loans for mutual housing and limited equity housing cooperatives.

(c) Proposed development projects shall be ineligible to receive funding if construction work has begun or will begin prior to the date that the Department makes an award of program funds. "Construction work" includes: grading; site preparation (with the exception of demolition or clearing of property); or site improvements intended for public dedication.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.3, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7719. Eligible and Ineligible Uses of Funds.

(a) Eligible uses of funds for specific activities are set forth in the article dealing with that activity.

(b) CalHome funds shall not be used for any of the following costs that may be incurred in the local program or the project.

(1) Refinancing of existing loans with CalHome funds, except CalHome funds may be used for site acquisition bridge loans with a term of thirty–six (36) months or less on homeownership development projects.

(2) Costs associated with the rehabilitation or repair of property owned by a mobilehome park owner.

(3) Offsite improvements (improvements outside the boundaries of the subdivision or individual parcels for scattered site development).

(4) Unit construction costs, except in owner–occupied rehabilitation local programs.

(5) Recurring loan closing costs.

(6) Payoff of all or any portion of a borrower's consumer debt, liens or judgments.

(7) Self–help technical assistance grant funds may not be used to pay for purchase of land, materials, tools and construction equipment or for any costs of construction.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.3(b), Health and Safety Code

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7720. Eligible Households.

To be eligible to receive the benefits of CalHome funding, an individual household shall:

(a) be a lower–income household, when considering the gross income of all household residents eighteen (18) years old or older. For shared housing match services, where the provider is elderly, the income of non–occupying children who are on title will not be counted;

(b) include as borrowers on the CalHome Program promissory note all persons who will be or are on title to the property; and

(c) either:

(1) in the case of a rehabilitation loan or if receiving shared housing match services, be an owner–occupant and intend to continue occupying the home as a principal place of residence; or

(2) in the case of a mortgage assistance loan or if receiving self–help technical assistance services, be a first–time homebuyer and intend to occupy the home as a principal place of residence.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650(c) and 50650.3, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7721. Local Program/Project Administration.

(a) The Recipient shall implement the local program or project and be responsible for the following activities:

(1) marketing the local program or project;

(2) determination of a household's income–eligibility pursuant to the income requirements of this subchapter;

(3) where applicable, based on the nature of the local program or project, compliance with the following requirements:

(A) Section 7722 homebuyer education requirements;

(B) Section 7723 loan servicing requirements;

(C) Section 7724 reuse account requirements;

(D) Section 7730 mortgage assistance requirements;

(E) Section 7731 mortgage assistance underwriting requirements;

(F) Section 7734 owner-occupied rehabilitation requirements;

(G) Section 7735 owner-occupied rehabilitation underwriting and construction requirements;

(H) Section 7738 self-help technical assistance requirements; and

(I) Section 7741 shared housing technical assistance requirements.

(4) for mortgage assistance or owner-occupied rehabilitation loans, disbursing funds on behalf of borrowers at time of property acquisition or during rehabilitation;

(5) maintaining complete and accurate records of all CalHome Program loan disbursements and repayments to ensure adherence to proper accounting procedures for the CalHome Program loans, which may be verified by the Department and may be subject to a fiscal and programmatic audit;

(6) complying with reporting requirements pursuant to Section 7754; and

(7) complying with all other locality and/or nonprofit corporation requirements as set forth in these regulations and all applicable Federal and State regulations.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b), 50650.4 and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7722. Homebuyer Education Requirements.

(a) Homebuyer education shall be provided to all homebuyers receiving a CalHome mortgage assistance loan and to all self-help participants being assisted under a CalHome self-help technical assistance grant. For each home purchase completed by an assisted household, the CalHome program shall provide a grant of up to a maximum amount as published in the latest NOFA per assisted household toward the cost of the homebuyer education, provided the following conditions are met:

(1) homebuyer education curriculum shall be pre-approved by the Department and at a minimum, shall include the following topics;

(A) preparing for homeownership

(B) available financing and credit analysis;

(C) loan closing and homebuyer responsibilities;

(D) home maintenance and loan servicing;

(2) a certificate of successful completion of homebuyer education shall be issued to each prospective homeowner and a copy submitted to the Department.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.3(b), Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7723. Loan Servicing Requirements.

(a) Recipients shall develop and employ a loan servicing plan that has been submitted to and approved by the Department as addressing the following topics:

(1) Process for monitoring the requirement of owner-occupancy,

(2) Annual review of hazard and flood insurance,

(3) Timely payment of property taxes and assessments,

(4) Accounting for repayment of CalHome Program loans,

(5) Properly calculating payoffs,

(6) Processing demands,

(7) Reconveyance of deeds of trust,

(8) Collection of CalHome Program notes in default or foreclosure.

(b) If loan servicing will be performed under a contract with a third party, that third party must be in the business of performing loan servicing; and

(c) Recipients shall be required to enter into a long term monitoring agreement with the Department allowing Department monitoring of loan servicing for compliance with these regulations.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b), 50650.4 and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).
2. New subsection (a) filed 6-4-2004; operative 7-4-2004 (Register 2004, No. 23).

§ 7724. Reuse Account.

(a) CalHome Recipients shall develop and employ a reuse account plan that has been submitted to and approved by the Department as addressing the following topics:

(1) Description of a tracking system to ensure the reuse of funds for eligible activities including:

(A) Loans to individual homeowners and homebuyers,

(B) CalHome loan processing, housing rehabilitation processing, homebuyer education and other eligible activity delivery fees, and;

(C) Allowable 5% loan servicing fee.

(b) All repayments of CalHome Program loan principal and any CalHome Program loan interest shall be deposited into a separately maintained reuse account.

(c) Any interest earned on deposited CalHome reuse funds must accrue to the CalHome identified funds and be reused for CalHome purposes.

(c) Funds in the reuse account shall only be used by the Recipient for CalHome Program eligible activities.

(d) Recipients shall be required to enter into a long term monitoring agreement with the Department allowing Department monitoring of reuse accounts for compliance with these regulations.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.3(b), Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).
2. New subsections (a)-(a)(1)(C) filed 6-4-2004; operative 7-4-2004 (Register 2004, No. 23).

Article 3. Homeowner/Homebuyer Loan Requirements

§ 7725. Maximum Homeowner/Homebuyer Loan Amounts.

(a) CalHome Program loans to individual borrowers shall not exceed the amount published in the current NOFA or, when considered with other available financing and assistance, the minimum amount necessary:

(1) in the case of first-time homebuyer mortgage assistance, to ensure affordable monthly housing costs as defined by the first mortgage lender.

(2) in the case of owner-occupant rehabilitation, to fund eligible rehabilitation costs only, in accordance with program requirements.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New article 3 (sections 7725-7727) and section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7726. Homeowner/Homebuyer Loan Terms.

(a) CalHome Program loans shall be secured by the property or leasehold interest, as applicable.

(b) The lien securing repayment of the CalHome Program loan shall be subject only to liens, encumbrances and other matters of record reviewed and approved by the Recipient responsible for underwriting the CalHome Program loan.

(c) Homeowner/Homebuyer CalHome Program loans shall have the following terms and conditions:

(1) principal and interest payments shall be deferred for the term of the CalHome Program loan;

(2) loans shall be repayable upon sale or transfer of the property, when the property ceases to be owner-occupied, or upon the CalHome Program loan maturity date; However, if it is determined by the recipient that repayment of the CalHome Program loan at the maturity date causes a hardship to the borrower, the recipient has two other options. They are:

(A) Amending the note and deed of trust to defer repayment of the amount due at loan maturity, that is the original principal and the accrued interest, for up to an additional 30 years (at 0% additional interest), this may be offered one time, or;

(B) Converting the debt at loan maturity, that is the original principal balance and any accrued interest, to an amortized loan, repayable in 15 years at 0% additional interest.

(3) loans are not assumable;

(4) the following transfers of interest shall not require the repayment of the CalHome Program loan:

(A) transfer to a surviving joint tenant by devise, descent, or operation of law on the death of a joint tenant;

(B) a transfer, in which the transferee is a person who occupies or will occupy the property, which is:

(i) a transfer where the spouse becomes an owner of the property;

(ii) a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse becomes an owner of the property; or

(iii) a transfer into an inter vivos trust in which the borrower is and remains the beneficiary and occupant of the property;

(5) the term for first-time homebuyer mortgage assistance CalHome Program loans shall be thirty (30) years with the following exception: when United States Department of Agriculture, Rural Housing Service (USDA-RHS) 502 mortgage loans are in first lien position, the term shall be the term of the 502 mortgage (30 to 38 years);

(6) the term for owner-occupied rehabilitation CalHome Program loans shall be a maximum of thirty (30) years as determined by the Recipient; and

(7) a borrower may pay the CalHome Program loan amount, in part or in whole, at any time without penalty.

(d) All CalHome assistance to individual households shall be made in the form of a loan. Recipients may make CalHome Program loans bearing simple interest up to three percent per annum, and may allow forgiveness of all or a portion of the accrued interest as part of its local program design. Loan principal shall not be forgiven, except as allowed by statute. In lieu of making loans bearing a fixed rate of interest, recipients may instead charge contingent deferred interest in the form of shared net appreciation as set forth in subsection (e).

(e) Shared net appreciation is allowed, only as follows:

(1) gross appreciation is calculated by subtracting the original sales price from the current sales price or the current appraised value if the loan accelerating event is other than sale of the property;

(2) net appreciation is calculated by subtracting the seller's applicable closing costs, seller's cash contribution in the original purchase transaction, the value of seller's sweat equity, if applicable, and the documented value of capital improvements from the gross appreciation amount;

(3) the recipient may only claim repayment of the principal, interest and a portion of the net appreciation. That maximum portion of the net appreciation which may be claimed by the recipient is equal to the percentage of the value of the residence financed by the CalHome Program loan. That is, if the loan equals twenty percent (20%) of the initial value of the residence, a maximum of twenty percent (20%) of the appreciation may be charged by recipient.

(f) In any loan transaction where the CalHome Program loan is the only subsidy, the borrower cannot be restricted from selling the home at its fair market value at any time.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7727. Homeowner/Homebuyer Loan-to-Value Limits.

(a) The loan-to-value ratio for a mortgage assistance CalHome Program loan, when combined with all other indebtedness to be secured by the property, shall not exceed one hundred (100) percent of the sales price plus a maximum of up to five (5) percent of the sales price to cover actual closing costs.

(b) The loan-to-value ratio for an owner-occupied rehabilitation CalHome Program loan, when combined with all other indebtedness secured by the property, shall not exceed one hundred-five (105) percent of the after-rehabilitation value estimated pursuant to Section 7735(b)(1).

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 4. Mortgage Assistance Programs.

§ 7728. Eligibility Requirements.

In addition to the requirements of Section 7717, to be eligible to apply for CalHome funding for a mortgage assistance program, the applicant shall have successfully administered a homebuyer program for a minimum of two years within the four years immediately preceding the application.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.4, Health and Safety Code.

HISTORY

1. New article 4 (sections 7728-7731) and section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7729. Eligible Costs.

CalHome funds in support of a mortgage assistance program shall be used only for the following costs:

(a) Mortgage assistance for permanent financing of :

(1) a dwelling unit ready for occupancy; or

(2) a unit acquired by a loan such as a HUD FHA 203(k) loan. This includes self-help housing mortgage assistance, except that CalHome permanent financing may be disbursed at time of lot purchase where the self-help housing is being financed under the U. S. Department of Agriculture, Rural Housing Service 502 program;

(b) Homebuyer education, which will be reimbursed in the form of a grant from the Department to the Recipient in an amount not to exceed the maximum published in the current NOFA.

(c) Non-recurring loan closing costs.

(d) A CalHome loan-processing activity delivery fee not to exceed the maximum amount published in the current NOFA will be reimbursed in the form of a grant from the Department to the Recipient.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.3(b), Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7730. Local Program Administration Responsibilities.

The recipient of CalHome funds to operate a local mortgage assistance program shall be responsible for the following activities:

(a) providing information and assistance to first-time homebuyers on obtaining maximum amount of first mortgage financing pursuant to the underwriting requirements in Section 7731;

(b) reviewing CalHome required appraisals for property eligibility under value limits established pursuant to Section 7731(b)(3). The appraised value shall not exceed these limits;

(c) in the case of acquisition of existing housing, the Recipient shall be responsible for inspection of properties to be purchased or a review of Uniform Residential Appraisal Reports, including the Valuation Conditions, to ensure that they conform to the requirements of State Housing Law (California Health and Safety Code, Section 17910 et seq.);

(d) ensuring completion by each assisted household of a homebuyer education class that meets the requirements of Section 7722; and

(e) originating, underwriting, packaging and closing CalHome Program loans in accordance with program requirements.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7731. Mortgage Assistance Underwriting Requirements.

(a) CalHome Recipients shall develop and employ Mortgage Assistance Program Underwriting Guidelines that have been submitted to and approved by the Department as addressing the following underwriting topics:

(1) establish front and back–end ratios used to qualify the borrower;

(2) what criteria will be used to determine the credit worthiness of the borrower;

(3) requirements for the first mortgage:

(A) Borrower shall obtain the maximum first lien mortgage loan with a term and interest rate from a mortgage lender consistent with affordable housing costs as defined in each program's guidelines.

(B) Mortgage loans shall not include provisions for negative amortization, principal increases, balloon payments or deferred interest

(4) financing subordinate to the CalHome Program loan:

(A) fees and/or charges for subordinate financing shall be reasonable loan origination fees for first mortgage financing as determined by the Department to be consistent with industry standards;

(B) there must not be a balloon payment due before the maturity date of the CalHome Program loan;

(C) all subordinate financing provided shall defer principal and interest payments for the term of the CalHome Program loan;

(b) Prior to close of escrow, the Recipient shall ensure that an appraisal has been obtained which meets the following requirements:

(1) the appraisal shall be prepared by a State–licensed, residential property appraiser;

(2) the appraisal shall use the sales of comparable properties approach to determine value; and

(3) maximum appraised home values at time of purchase or upon completion of acquisition/rehabilitation work shall not exceed the appraised value limit established by the Department and published in the NOFA.

(c) Cash out of escrow to borrowers are limited to the amount deposited into escrow by the borrowers and not needed for any lender–required minimum down–payment.

(d) Recipients must obtain title insurance in the amount of the CalHome Program loan at close of escrow.

(e) Fire insurance (and flood insurance where applicable) requirements are as follows:

(1) Recipient must require borrowers to maintain insurance on the property in an amount at least equal to the replacement value of the improvements; and

(2) Recipient must be named as additional loss payee on the policy.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 5. Owner–Occupied Rehabilitation Programs

§ 7732. Eligibility Requirements.

In addition to the requirements of Section 7717, to be eligible to apply for CalHome assistance for an owner–occupied rehabilitation program, the applicant shall have successfully administered a local owner–occupied rehabilitation program for a minimum of two years within the four years immediately preceding the application.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.4 and 50650.7, Health and Safety Code.

HISTORY

1. New article 5 (sections 7732–7735) and section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7733. Eligible Costs.

CalHome funds in support of an owner–occupied rehabilitation program shall be used only for the following costs:

(a) Cost of rehabilitation of the property, as defined in Section 7716(*l*).

(b) Cost of building permits and other related government fees.

(c) Cost of an appraisal, architectural, engineering, and other consultant services that are directly related to the rehabilitation of the property.

(d) Non–recurring loan closing costs.

(e) Replacement cost of a manufactured home not on a permanent foundation up to the maximum amount published in the current NOFA in the case where it has been determined by the Recipient it is infeasible to rehabilitate the home.

(f) A CalHome activity delivery fee in an amount not to exceed the maximum amount published in the current NOFA per assisted unit will be reimbursed in the form of a grant from the Department to the Recipient.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7734. Local Program Administration Requirements.

The recipient of CalHome funds for the operation of a local owner–occupied rehabilitation program shall be responsible for the following activities:

(a) reviewing CalHome required after–rehabilitation appraisals for property eligibility under value limits established in the current published NOFA;

(b) originating, underwriting, packaging and closing CalHome Program loans in accordance with program requirements; and

(c) completion of rehabilitation construction requirements pursuant to the Owner–Occupied Rehabilitation Program Guidelines required by Section 7735(a).

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7735. Underwriting and Construction Requirements.

(a) CalHome Recipients shall develop and employ Owner–Occupied Rehabilitation Program Guidelines submitted to and approved by the Department as addressing the following topics:

(1) owner–occupied rehabilitation underwriting guidelines including borrower credit requirements; and

(2) rehabilitation construction requirements.

(b) Prior to commencement of rehabilitation work, an appraisal shall be obtained with the following requirements:

(1) the appraisal may be prepared by Recipient's staff using the sales of comparable properties approach to determine value. If comparable sales are not available, the appraisal shall be prepared by a State–licensed, residential property appraiser;

(2) the appraisal shall take into consideration the estimated value of the rehabilitation work to be completed on the property and shall include the pre–rehabilitated value and the after–rehabilitated value; and

(3) An appraisal is not required in the case of rehabilitation work on a manufactured home not on a permanent foundation.

(c) Any cash out of escrow to borrowers is prohibited.

(d) Recipients must obtain title insurance in the amount of the CalHome Program loan at close of escrow.

(e) Fire insurance (and Flood insurance where applicable) requirements are as follows:

(1) Recipient must require borrowers to maintain insurance on the property in an amount at least equal to the replacement value of the improvements; and

(2) Recipient must be named as additional loss payee on the policy.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 6. Self–Help Technical Assistance Projects.

§ 7736. Eligibility Requirements.

In addition to the requirements of Section 7717, to be eligible to apply for CalHome assistance for a self–help technical assistance project, the applicant shall meet the criteria set forth in the CCR, Title 25, Division 1, Chapter 7, Subchapter 6.5, Article 1, Section 7532 "Eligible Sponsors", and have successfully completed a minimum of two self–help, new construction projects within the four years immediately preceding the application.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b), 50650.4 and 50650.7, Health and Safety Code.

HISTORY

1. New article 6 (sections 7736–7738) and section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7737. Eligible Costs.

CalHome funds in support of a self–help technical assistance project shall be used only for the following costs:

(a) Costs for assistance, training and supervision on self–help construction activities and techniques.

(b) Homebuyer education, which will be reimbursed in the form of a grant from the Department to the Recipient in an amount not to exceed the maximum published in the current NOFA.

(c) Costs of assistance provided in project development which includes, but is not limited to, the preparation of contracts for professional services, application for project funding, packaging households' applications for assistance, preparation of subdivision maps, review of engineering plans and specifications for construction and rehabilitation projects and compliance with appropriate requirements of funding agencies and local government.

(d) Administrative costs of providing technical assistance for the project funded by the Department including, but not limited to, wages, salaries and fringe benefits of clerical and management personnel and payment for rent, utilities, communications, printing and travel expenses.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.3(b), Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7738. Self–Help Technical Assistance Requirements.

(a) The recipient shall develop and employ Self–Help Technical Assistance Program Guidelines submitted to and approved by the Department as addressing the following topics:

(1) Program Marketing

(2) Recruitment of homebuyers and selection criteria

(3) Income limits for participation and income determination procedures

(4) Criteria for homebuyer participation in the program including:

(A) Residency requirements

(B) Credit requirements

(C) Process for determining participant's physical capability to assist in the construction of their home

(5) List of activities to be performed by self–help participants

(6) Construction training plan

(7) Homeownership training plan

(b) A home assisted with self–help technical assistance shall not be sold at a price that exceeds its appraised value;

(c) Prior to the disbursement of an advance, not to exceed twenty–five percent (25%) of the total grant amount, the recipient must submit a certification that the recipient does not have available funds to initiate the project.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.3(b), Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 7. Shared Housing Programs.

§ 7739. Eligibility Requirements.

In addition to the requirements of Section 7717, to be eligible to apply for CalHome assistance for a shared housing program, the applicant shall have successfully administered a shared housing program for a minimum of two years immediately preceding the application.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b), 50650.4 and 50650.7, Health and Safety Code.

HISTORY

1. New article 7 (sections 7739–7741) and section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7740. Eligible Costs.

CalHome shared housing technical assistance funds shall be used only for the following costs:

(a) Indirect costs of administering a shared housing local program, including the costs of providing information and referrals; outreach/marketing costs; program evaluation; and CalHome program reporting requirements; and/or

(b) Costs of direct services, including shared housing matching, documentation of match efforts, and match follow–up services.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.3(b), Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7741. Program Administration Requirements.

(a) A shared housing technical assistance local program shall, at a minimum, include the following features:

(1) information regarding services available, procedures and program requirements, which shall be provided to all individuals requesting assistance;

(2) outreach and marketing activities shall be conducted to reach both potential homeowner providers and potential seekers and provide information about the availability, purpose and requirements of shared housing match services;

(3) program evaluations shall be obtained from clients (homeowner providers and seekers) by the shared housing technical services provider to be used as a basis for assessment and improvement of services provided to clients; and

(4) all services required to effect a shared housing match between a low–income qualified homeowner provider and a seeker which must include at minimum, intake forms/applications, face–to–face interviews between homeowner providers/seekers and shared housing agency staff, reference checks, and income determinations to determine homeowner provider eligibility;

(5) documentation of a minimum ten (10) percent reduction in housing costs (or increased income) for homeowner providers, except in instances where a homeowner provider is age sixty (60) or over or disabled and the seeker (renter) will be providing services to the homeowner provider. In cases that do not meet this requirement, the Recipient shall provide written justification; and

(6) match follow-up services to determine match satisfaction and to help clients maintain a successful shared housing match.

(b) A seeker may not be matched to a homeowner provider who rents out more than two rooms in their home.

(c) The aggregate annual CalHome reimbursement cannot exceed fifty (50) percent of the locality's or nonprofit corporation's annual budget for their shared housing match local program.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 8. Development Loan Requirements

§ 7742. Eligibility Requirements.

In addition to the requirements of Section 7717, to be eligible to apply for a development loan, an applicant shall have successfully developed a minimum of two similar projects within the last four years, and the applicant shall have staff that will be committed to the proposed project that possess the knowledge, skills and ability to perform the tasks required in a homeownership development project.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b), 50650.4 and 50650.7, Health and Safety Code.

HISTORY

1. New article 8 (sections 7742-7748) and section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7743. Eligible Costs.

CalHome funds in support of a development project shall be used only for the following costs:

(a) purchase of real property;

(b) building permits and state and local fees;

(c) predevelopment costs directly related to the single-family housing development;

(d) onsite improvements related to single-family housing development (within the boundaries of the subdivision or individual parcels for scattered site developments);

(e) carrying costs during construction, including insurance, construction financing fees and interest, taxes, and any other expenses necessary to hold the property while the single-family housing development is under construction;

(f) escrow, title insurance, recording and other related costs;

(g) costs for items intended to assure the completion of construction, such as contractor bond premiums;

(h) environmental hazard reports, surveys, and investigations; and

(i) payoff of bridge loan financing for site acquisition which has a term of thirty-six (36) months or less.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.3(b), Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7744. Site Control.

To be eligible to apply for a homeownership development project loan, the applicant shall have site control of the proposed project property as evidenced by one of the following:

(a) fee simple title;

(b) an enforceable option to purchase, which shall extend, or may be extended, for a minimum of 120 days beyond the deadline for application submittal;

(c) a disposition and development agreement with a public agency;

(d) a sales contract, or other enforceable agreement for the acquisition of the property; or

(e) a leasehold interest, or an enforceable option to lease. The option to lease shall extend for a minimum of 120 days beyond the deadline for application submittal. The leasehold term must be for a minimum of 40 years. The leasehold must have provisions that enable the lessee(s) to make improvements on and encumber the property for a term sufficient to secure the CalHome lien; or

(f) other forms of site control that give the department equivalent assurance that the project will be able to proceed without inordinate delay.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.3(b), Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7745. Maximum Development Loan Amount.

The maximum project development loan amount shall be published in the current NOFA.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7746. Development Loan Terms.

(a) All CalHome Program development loans shall be secured by the project real property and improvements, subject only to liens, encumbrances and other matters of record which have been reviewed and approved by the Department on a case-by-case basis.

(b) The development loan term shall end no later than the date specified in the Standard Agreement.

(c) Principal and interest payments shall be deferred for the term of the development loan.

(d) Development loans shall be repayable at permanent closings of the individual homebuyer CalHome Program loans or at the development loan maturity date, whichever occurs first. The portion of development loan repayments that are used to provide mortgage assistance to qualified first-time homebuyers will be converted to a grant to the Recipient. The balance of the development loan will be repaid to the Department.

(e) Development loans shall bear interest at the rate of six percent simple interest per annum. The Department may forgive accrued interest on a pro rata basis to the extent that the number of lower-income households originally proposed to be served, have been served upon completion of the project.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7747. Development Loan-to-Value Limits.

Loan-to-value limits include all liens recorded or to be recorded on the project property.

(a) When development loan funds are used for the purchase of unimproved real property, the loan-to-value ratio shall not exceed one hundred (100) percent of the unimproved appraised value.

(b) When development loan funds are used for the purchase of improved real property, the loan-to-value ratio shall not exceed one hundred (100) percent of the improved appraised value.

(c) When development loan funds are used for predevelopment or site improvement costs, the loan-to-value ratio shall not exceed 100 percent of the appraised land value, plus predevelopment and/or site improvements costs.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7748. Development Requirements.

(a) Prior to disbursement of development loan proceeds:

(1) the developer borrower shall be the sole owner of the development site or upon close of purchase escrow when CalHome funds are being used for site acquisition;

(2) the developer borrower shall have a firm financing commitment(s) for all costs to complete the development;

(3) the Department shall have approved a final construction budget that ensures that the estimated sales price of the homes to be constructed:

(i) do not exceed the limits established in the NOFA; and

(ii) can reasonably be expected to be affordable to eligible buyers; and

(4) the developer borrower shall have met all other Department conditions for disbursement as stated in the Standard Agreement required by Section 7752(a).

(b) Consistent with the capacity requirements of Section 7717 and 7742, the developer borrower shall be required to develop the project without any co-developer.

(c) A home assisted with a development loan shall not be sold at a price that exceeds its appraised value.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.3(b), 50650.4 and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 9. Application Procedures

§ 7749. Application Process.

(a) The Department shall periodically issue a NOFA that specifies, among other things, the amount of funds available, the minimum/maximum application amount, the minimum/maximum activity amount, minimum/maximum amount per assisted unit, the maximum reimbursement amount per shared housing match, the maximum sales price/value limit which will represent 100% of the current local median sales price of a single family home, minimum number of units per homeownership development project, application requirements, the activities eligible for funding, the number of activities that may be applied for in one application, the allocation of rating points, the deadline for submittal of applications, the schedule for rating and ranking applications and awarding funds, and the general terms and conditions of funding commitments.

(b) In order to implement goals and purposes of the CalHome Program, the Department may adopt measures to direct funding awards to designated local program types or project types including, but not limited to local programs or projects that: are utilizing self-help labor; are utilizing volunteer labor; involve a construction skills training program; contribute toward community revitalization; or are located in rural areas or other areas to achieve a reasonable geographic distribution of funding, to the extent feasible. Such measures may include, but are not limited to:

(1) issuing a separate NOFA for designated local program or project types;

(2) awarding bonus points to designated local program or project types within a particular NOFA;

(3) reserving a portion of funds in the NOFA for designated local program or project types; and/or

(4) notwithstanding anything in these regulations to the contrary, a separate NOFA issued pursuant to this subsection may establish an over-the-counter application process meaning the Department continuously accepts and rates applications until the funding available under the NOFA is exhausted. At a minimum, a separate NOFA shall include a description of the application process and funding conditions, shall require compliance with paragraph (a) of this Section, and shall establish minimum funding threshold criteria based on the rating criteria set forth in subdivision 7741.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.7, Health and Safety Code.

HISTORY

1. New article 9 (sections 7749-7751) and section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7750. Application Requirements.

Application shall be made in a format provided by the Department. The Department shall request the following information:

(a) Applicant identification information including: name, address, telephone number, contact person and, for nonprofit corporations, corporate governing documents and financial information (e.g., articles and by laws, certificate of good standing, confirmation of 501(c)(3) status, audited financial statements), and list of legislative representatives for the area where the program or project will be undertaken.

(b) Governing board resolution which legally authorizes the application.

(c) Certification that the applicant: has the authority to undertake the activities applied for; that it does not have any unresolved Department audit findings nor pending lawsuits; that if the application is for a construction project, construction work has not yet begun; and that it agrees to comply with all program requirements.

(d) Project or program description including: amount applied for, number of units or households to be assisted, income levels of households to be assisted, description of prior experience with the type of program or project applied for, geographic location of the activities, financing sources and uses, and description of any contributed labor.

(e) For development projects, the description of the project also shall include: a description of how the applicant has site control; the status of all local government approvals; availability of on and off site improvements and utilities; soil condition and environmental conditions; project costs; unit description in terms of size, number of bedrooms; per unit construction cost; estimated sales price and sources of financing; estimated monthly housing costs of purchasers; and description of the homebuyer education program.

(f) A description of how the applicant will comply with the requirements for local program administration set forth in Section 7721 applicable to the program or project being applied for.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Section 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7751. Selection Criteria.

(a) Applications shall not be considered for funding unless the application is received by the deadline as stated in the NOFA and demonstrates that all of the following conditions exist:

(1) The application contains substantially all of the information required by Section 7750 and contains sufficient information to allow the Department to apply the rating factors set forth in subsection (b) of this Section.

(2) the applicant is eligible;

(3) the applicant proposes an eligible activity;

(4) the applicant proposes an eligible use of the funds;

(5) the applicant does not have any unresolved audit findings for prior Department or federally-funded housing or community development projects or programs;

(6) the applicant has no pending lawsuits that would impact implementation of the program or project for which funding is being requested;

(7) if the application is for a development project, construction on the project has not yet begun; and

(8) the proposed program or project is consistent with any special terms and conditions of the NOFA (e.g., maximum amounts for downpayment assistance, sales price, development loan).

(b) Each application considered for funding shall be rated using the following criteria and maximum possible rating points. The maximum points an application may receive shall not exceed 1,000 points. Applications must receive a minimum of 550 points to be considered for funding.

(1) Capability to operate the local proposed program, administer and conduct the self-help technical assistance project, or develop the type of

homeownership project proposed in the application as follows (up to 400 points):

(A) prior experience with administration/implementation of the type of program proposed in the application; or

(B) prior experience in developing the type of homeownership development project or self-help technical assistance homeownership project as proposed in the application; and

(C) prior experience with loan servicing or a plan to provide loan servicing/management capabilities.

(2) Community need in a geographic area of the proposed local program or project will be based on one or more of the following factors: poverty level and overpayment for housing by low-income households, age of housing stock in the jurisdiction, numbers and percentages of substandard housing units, overcrowding of housing by tenure (including rental and ownership housing) in the jurisdiction, and percentages of households that are below poverty level and who are overcrowded and living in substandard housing by tenure, as reflected in U.S. Census data; and the ratio between the median home sales price and the median household income in the jurisdiction. The specific community need factors that will apply to each activity will be identified in the NOFA. (up to 150 points)

(3) Feasibility of the proposed activity as demonstrated by either of the following (up to 250 points):

(A) for applications proposing local program activities, the extent to which the proposed local program is responding to a community need. Feasibility will be determined by statistical indicators based on single-source data readily available to the Department for all potential jurisdictions that may apply for CalHome funding.

(i) For mortgage assistance programs, feasibility will be based on U.S. Census Bureau data regarding the percentage of low-income homeownership in a jurisdiction, the ratio of the CalHome appraised value limits relative to the CalHome median income for a four-person household. From data supplied by the California Association of Realtors, the number of homes sold in the previous 12 months in a jurisdiction at or below the median sales price for the jurisdiction. The higher the percentage of low-income homeowners, the higher the points awarded. The higher the ratio of housing cost to income, the higher the points awarded. The higher the number of homes sold at or below median sales price the higher the points awarded.

(ii) For owner-occupied rehabilitation, feasibility will be based on U.S. Census Bureau data regarding the percentage of low-income households that are currently homeowners, the number of overcrowded households, and the age of the housing stock. The higher the percentage of low-income homeowners, the higher the points awarded. The higher the percentage of pre-1980 homes, the higher the points awarded. The higher the number of overcrowded households, the higher the points awarded.

(iii) For shared housing, feasibility will be determined by the U. S. Department of Housing and Urban Development's (HUD) fair market rent (FMR) for a one-bedroom unit as a percentage of CalHome median income (AMI) for a one-person household and U.S. Census Bureau data on the jurisdiction vacancy rate. The higher the ratio of FMR to AMI, and the lower the vacancy rate, the higher the points awarded.

(B) for applications proposing a homeownership development project or a self-help technical assistance homeownership project:

(i) the readiness of the project development to proceed as evidenced by the status of local government approvals; project financing commitments; resolution to impediments to development; and

(ii) evidence of ability to serve low- and very low-income households pursuant to the mortgage assistance underwriting requirements stated in Section 7731, as evidenced by the development budget and proposed unit sales prices.

(iii) feasibility will be based on U.S. Census Bureau data regarding percentage of low-income homeownership in a jurisdiction and the ratio of the CalHome appraised value limits relative to the CalHome median income for a four-person household. The higher the percentage of low-income homeowners, the higher the points awarded. The higher the ratio of housing cost to income, the higher the points awarded.

(4) Contributes to community revitalization as defined in Section 7716(g) or meets a legislatively mandated priority for funds allocated to the CalHome Program. (up to 100 points)

(5) Volunteer Labor, Self-Help Labor or Youth Construction Skills Training Program (up to 100 points)

Applications applying for homeownership development projects, self-help technical assistance homeownership projects, or a mortgage assistance local program for new construction housing or acquisition with rehabilitation when the recipient is acquiring and rehabilitating properties for sale to first-time homebuyers, will receive up to 100 points to the extent that they are utilizing:

(A) volunteer or self-help construction labor, where a minimum of five hundred (500) hours of on-site construction labor per assisted unit is provided; or

(B) labor provided by youth participating in a construction skills training program, where a minimum of five hundred (500) hours of on-site construction labor per assisted unit is provided. The five hundred (500) hours of construction training labor must be provided by the 16 to 24 year old program participants.

(c) Performance Penalty (50 points) A deduction to the total score will be applied for failure to meet CalHome Program Performance Goals pursuant to Section 7755.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.4 and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Article 10. Program Operations

§ 7752. Legal Documents.

(a) Upon the award of funds the Department shall enter into a Standard Agreement with the Recipient constituting a conditional commitment of funds. This contract shall require the parties to comply with the requirements and provisions of these regulations. The Standard Agreement shall encumber State monies in an amount sufficient to fund the approved local program or project, subject to limits established in the NOFA and consistent with the application. The Standard Agreement shall contain, but not be limited to, the following as appropriate for the activity. In the case of a self-help technical assistance award, the Department shall enter into a Technical Assistance Standard Agreement (TASA) pursuant to CCR Title 25, Division 1, Chapter 7, Subchapter 6.5, Article 3, Section 7554. Where that section and the following deviate, the aforementioned Section 7554 takes precedence.

(1) a description of the approved local program or project and the permitted uses of CalHome program funds;

(2) provisions governing the amount, terms and conditions of the Department's development loan or grant to the Recipient;

(3) for homeownership development projects, provisions governing the construction work and, as applicable, the acquisition of the project site, and the disbursement of loan proceeds;

(4) for self-help technical assistance projects, a budget and a timetable for completion of the project;

(5) requirements for the execution and, where appropriate, the recordation of the agreements and documents required under the CalHome Program;

(6) for a local program or project, the Recipient's responsibilities for operation of the local program or completion of the project, including, but not limited to, number of units to be assisted, marketing, CalHome Program loan processing and funding, construction monitoring and disbursement, report submissions, file documentation;

(7) for a homeownership development project, the Recipient's responsibilities for the development of the project, including, but not limited to,

number of units to be assisted, marketing, processing of individual homebuyer CalHome Program loans, expiration date, report submissions, file documentation;

(8) manner, timing and conditions for disbursement of CalHome Program or project funds to Recipients;

(9) provisions relating to the placement on or in the vicinity of the homeownership development project site, a sign indicating that the Department has provided financing for the project. The Department may also arrange for publicity of the Department CalHome Program homeownership development loan in its sole discretion;

(10) remedies available to the Department in the event of a violation, breach or default of the standard agreement;

(11) requirements that the Recipient permit the Department or its designated agents and employees the right to inspect the project or local program and all books, records and documents maintained by the Recipient in connection with the local program or self-help technical assistance project grant or development loan or local program individual CalHome Program loans;

(12) special conditions imposed on a case-by-case basis as part of Department approval of the local program or project;

(13) terms and conditions required by federal or state law; and

(14) other provisions necessary to ensure compliance with the requirements of the CalHome Program.

(b) Prior to the disbursement of funds, the Department shall enter into a twenty (20) year monitoring agreement with the Recipient requiring the parties to comply with the requirements and provisions of Section 7724 regarding a reuse account established pursuant to the CalHome legislation. The monitoring agreement shall contain, but not be limited to, the following:

(1) requirements regarding the establishment of a reuse account for the deposit of CalHome loan repayments, including interest and principal, and the requirements for disbursement of funds from the reuse account;

(2) the plan for servicing of the CalHome loans as prepared by the Recipient and reviewed and approved by the Department;

(3) the plan for the reuse of CalHome funds;

(4) requirements for submittal of an annual report;

(5) remedies available to the Department in the event of a violation, breach or default of the monitoring agreement;

(6) requirements that the Recipient permit the Department or its designated agents and employees the right to inspect the local program or project and all books, records and documents maintained by the Recipient in connection with the reuse account and long term loan servicing; and

(7) other provisions necessary to ensure compliance with the requirements of the CalHome Program.

(c) All homeowner/homebuyer CalHome Program loans originated by a Recipient shall be evidenced by the following documents and provisions:

(1) a promissory note evidencing the CalHome Program loan, payable to the Recipient in the principal amount of the CalHome Program loan and stating the terms and rate of interest of the CalHome Program loan consistent with the requirements of the CalHome Program. The Recipient is prohibited from assigning their beneficial interest under the note. The note shall be secured by a deed of trust, or other appropriate security instrument acceptable to the Department, on the homeowner/homebuyer property naming the Recipient as beneficiary. This deed of trust or other appropriate security instrument shall be recorded and shall secure the Recipient's financial interest in the project.

(2) in the case of homeowner rehabilitation CalHome Program loans, a loan agreement between the homeowner and the Recipient governing the rehabilitation and the CalHome Program loan terms. The terms of any other financing provided by the Recipient should also be included.

(d) Development loan legal documents shall include, but not be limited to:

(1) a promissory note evidencing the loan, payable to the Department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the CalHome Program. The note shall be secured by a deed of trust on the project property naming the Department as beneficiary. This deed of trust shall be recorded junior only to such liens, encumbrances and other matters of record approved by the Department and shall secure the Department's financial interest in the project and the performance of the developer borrower's program obligations;

(2) a development agreement between the Department and the developer borrower for not less than the term of the development loan.

(e) Self-help technical assistance grant legal documents shall include, but not be limited to, an agreement between the Recipient and self-help participants which clearly sets forth what is expected of each party and which clearly shows what work is expected of the participating household.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.2, 50650.3(b), 50650.4 and 50650.7, Health and Safety Code.

HISTORY

1. New article 10 (sections 7752–7756) and section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).
2. New subsections (b)(2) and (b)(4) filed 6–4–2004; operative 7–4–2004 (Register 2004, No. 23).

§ 7753. Disbursement of Grant and Loan Funds.

(a) CalHome Program funds shall be disbursed on an advance basis. Details of the process for advance disbursements will be published in the current NOFA, and shall be included in all Standard Agreements. Advances may include, but are not limited to:

(1) homeownership project development loan disbursements;

(2) advances of up to 25% of the award for self-help and shared housing technical assistance;

(3) advances for Owner-Occupied Rehabilitation programs up to the amount of the Recipient's anticipated volume of closed loans for the following sixty days; or

(4) advances to escrow for mortgage assistance loans.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.2, 50650.3(b), 50650.4 and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7754. Reporting Requirements.

(a) During the term of the Standard Agreement and no later than thirty (30) days after the end of each calendar quarter, the Recipient shall submit to the Department a performance report which shall address the following topics;

(1) Description of current status of program activity, including number of units assisted.

(2) Description of activities to be undertaken in the next reporting period.

(3) Description of problems or delays encountered in program implementation, and course of action taken to address them.

(4) Description of actions to achieve program expenditure deadlines.

(5) Summary of program fiscal status, including:

(A) Award amount.

(B) Funds drawn, and.

(C) Remaining balance.

(b) During the term of the Standard Agreement and Monitoring Agreement, no later than thirty (30) days after June 30th of each year, the Recipient shall submit to the Department an annual performance report which shall address the following topics;

(1) Number of units assisted with CalHome Program loans by program activity type.

(2) Amount of CalHome Program funds spent on CalHome eligible activities by category.

(3) Summary of fiscal status for the reporting period, including

(A) Award amount.

(B) Funds drawn as of June 30th, and.

(C) Remaining balance.

(c) At any time during the term of the Standard Agreement or the Monitoring Agreement, the Department may perform or cause to be performed an independent financial audit of any and all phases of the Recipient's local program, self-help technical assistance project or homeownership development project. At the Department's request, the Recipient shall provide, at its own expense, a financial audit prepared by a certified public accountant.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.2, 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).
2. New subsections (a)-(b)(3)(C) filed 6-4-2004; operative 7-4-2004 (Register 2004, No. 23).

§ 7755. Performance Goals.

(a) For all local program activities:

(1) One hundred (100) percent of funds must be expended within thirty-six (36) months of the date of the award of funds by the Department. If this goal is not met:

(A) the remaining unused funds shall be disencumbered by the Department; and

(B) if less than ninety-five (95) percent of the funds are expended at the end of the 36th month, the Recipient's next application for funding under the CalHome Program shall receive a penalty deduction in the total points awarded pursuant to the current NOFA.

(b) For homeownership development projects:

(1) the Recipient shall draw down CalHome funds or begin onsite construction within twenty-two (22) months of the award of funds by the Department. If this goal is not met the Department may disencumber all funds and cancel the Department commitment to the project; and

(2) unit construction must be completed and CalHome Program mortgage assistance loans closed within thirty-six (36) months of the award of funds by the Department. If the projected number of assisted units has not been achieved by the end of the 36th month, the Recipient's next application for funding under the CalHome Program shall receive a penalty deduction in the total points awarded pursuant to the current NOFA.

(c) For self-help technical assistance grants:

(1) the Recipient shall begin onsite construction within twelve (12) months of the award of funds by the Department. If this goal is not met the Department may disencumber all funds and cancel the Department commitment to the project; and

(2) unit construction must be completed within thirty-six (36) months of the award of funds by the Department. If this goal is not met then:

(A) the remaining unused funds may be disencumbered by the Department; and

(B) if the projected number of assisted units has not been completed by the end of the 36th month, the Recipient's next application for funding under the CalHome Program shall receive a penalty deduction in the total points awarded pursuant to Section 7751.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.2 and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 7756. Defaults and Loan Cancellations.

(a) Funding commitments may be canceled by the Department under any of the following conditions:

(1) the objectives and requirements of the CalHome Program cannot be met;

(2) implementation of the local program or project cannot proceed in a timely fashion in accordance with the timeframes established in the Standard Agreement; or

(3) funding conditions have not been fulfilled within required time periods.

(b) In the event of a breach or violation by the Recipient of any of the provisions of the Standard Agreement, the Development Agreement, the homeownership project development loan promissory note, or the homeownership project development loan deed of trust, or any other agreement pertaining to the homeownership development project, the Department may give written notice to the sponsor to cure the breach or violation within a period of not less than fifteen (15) days. If the breach or violation is not cured to the satisfaction of the Department within the specified time period, the Department, at its option, may declare a default under the relevant document and may seek legal remedies for the default including the following:

(1) the Department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amount in full, the Department may proceed with a foreclosure in accordance with the provisions of the deed of trust and state law regarding foreclosures;

(2) the Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the project in accordance with CalHome Program requirements; and

(3) the Department may seek such other remedies as may be available under the relevant agreement or any law.

(c) Upon receipt of a notice of intent to cancel the commitment from the Department, the Recipient shall have the right to appeal to the Director.

NOTE: Authority cited: Sections 50406(n) and 50650.2, Health and Safety Code. Reference: Sections 50650.2, 50650.3(b) and 50650.7, Health and Safety Code.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Subchapter 10. Rental Housing Construction Program

Article 1. General

§ 7800. Scope and Application.

(a) These regulations implement and interpret the Rental Housing Construction Program, Sections 50735 through 50770, inclusive, of the Health and Safety Code. They establish procedures for the disbursement of development and subsidy funds and establish policies and procedures for use of these disbursements to provide affordable housing under the Program. They also delegate authority for the initial recommendation of approval, rejection, amendment, and termination of loans or grants, with the exception of emergency loans and loans and grants to the Agency, from the Director of the Department of Housing and Community Development to the Committee referred to in this subchapter.

(b) The program is divided into three main components, designated as

(1) the sponsor development component,

(2) the rights of occupancy component, and

(3) the housing authority component, each of which is financed by the development payments account. In addition, these are complemented by the annuity fund, the management reserve account, and the feasibility account.

(c) Developments financed by the Agency shall be subject to the requirements of Articles 1, 2, and 6. All other developments shall be subject to the requirements of Articles 1 through 5, inclusive.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

HISTORY

1. New Subchapter 10 (Articles 1-6 (Sections 7800-7892, not consecutive)) filed 7-11-80; effective thirtieth day thereafter (Register 80, No. 28).
2. Amendment of subsection (a) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
3. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7801. Severability.

If any provision of this subchapter or the Program, or the application thereof to any person, entity or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of this subchapter are severable.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

§ 7802. Definitions.

The following are definitions governing the Program. They are supplemented by definitions in Subchapter 2 (commencing with Section 6910) of Chapter 6 of Title 25, California Administrative Code.

"Affordable rent" means rent determined by the Department to be affordable, in accordance with Section 7806.

"Agency" means the California Housing Finance Agency.

"Applicant" means a local finance entity or a housing authority seeking assistance from the Program or the Department acting as a local housing authority pursuant to law.

"Assisted unit" means a dwelling unit in a rental housing development or space in a mobilehome park available on a priority basis to or occupied by an eligible household at a rent which is affordable to that household as a result of assistance from the Program.

"Available to or occupied by on a priority basis" with respect to an assisted unit means a dwelling unit occupied by an eligible household or unoccupied and held out for rent on a priority basis to eligible households.

"Below market interest financing" means any of the following:

(1) A long-term loan made by the agency with below-market interest, as defined by Section 50056.

(2) A long-term loan made by a local finance entity at a below-market interest rate no higher than that established from time to time by the Department, provided such rate shall not exceed by more than one and one-half percent the interest rate on long-term loans, if any, made by the Agency for rental housing development proposals being submitted or processed for Department assistance under this chapter at the same time.

(3) The use of subsidies, assistance, or financing, other than as provided in paragraphs (1) and (2), which reduce rent levels by an amount equivalent to that enabled by long-term loans at the interest rate established for purposed of paragraph (2).

(4) Subsidies, assistance, or financing provided to the sponsor by or through the Agency or local finance entity and which is a loan made at below-market interest by an agency of the federal government.

"Code" means the California Health and Safety Code.

"Committee" means the Rental Housing Construction Program Committee established pursuant to Title 25, California Administrative Code, Section 6902(c).

"Department" means the California Department of Housing and Community Development.

"Development agreement" means a contract between an applicant and a sponsor in accordance with Section 7822 which regulates the construction of the rental housing development.

"Development costs" means the aggregate of all approved costs incurred in connection with construction of a rental housing development or rental unit, as the context requires, including:

(1) land acquisition, whether by purchase or lease,

(2) the construction of the rental units and related structures, including the costs of construction financing,

(3) overhead, including architectural, legal and accounting fees,

(4) off-site improvements, including sewers, utilities and streets,

(5) necessary on-site improvements,

(6) relocation costs,

(7) long-term financing fees

(8) rent-up and marketing expenses, and

(9) long-term financing costs where recommended by the Committee pursuant to Section 7842(d), (g).

"Elderly household" means a family in which the head of the household is 60 years of age or older or a single person who is 60 years of age or older except that different age limitation may be utilized if federal funding is utilized and such funding requires a different limitation.

"Eligible household" means a very low-income household or other lower income household, as defined in Sections 6926 and 6928.

"Excess Rents" means the project income attributable to the assisted units in excess of approved operating expense attributable to the assisted units. Project income attributable to the assisted units shall include carrying charges pursuant to Section 7858(g) and (h).

"Fund" means the Rental Housing Construction Fund.

"Handicapped household" means:

(1) a single person or a family in which the head of the household is suffering from an orthopedic disability impairing personal mobility or a physical disability affecting the ability to obtain employment, where the family or person requires special care or facilities in the home, or

(2) a single person or a family in which the head of household suffers from a developmental disability specified in Section 38010(a) of the Code or a mental disorder which would render him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency.

"Interagency operating agreement" means the contract between the Department and the Agency pursuant to Article 6 which regulates the relationship between the Department and the Agency.

"Local finance entity" means a redevelopment agency, local housing authority, city, county, city and county, or duly constituted governing body of an Indian rancheria, or any combination thereof, which proposes to provide or use below market interest financing or an equivalent subsidy for a rental housing development.

"Program" means the Rental Housing Construction Program and Chapter 9 (commencing with Section 50735) of Part 2 of Division 31 of the Health and Safety Code, and regulations promulgated thereunder.

"Regulated agreement" means a contract between the Agency or a responsible agency and a sponsor in accordance with Section 7822 which, establishes the respective rights and duties of the parties with respect to the development and payment therefor.

"Regulatory agreement" means a contract between the Agency or a responsible agency and a sponsor in accordance with Section 7822 which, establishes the respective rights and duties of the parties with respect to the development and payment therefor.

"Rental housing development" means five or more rental dwelling units, including mobilehomes, on one or more sites assisted or sought to be assisted under the Program. "Rental housing development" also includes five or more mobilehome park spaces. For purposes of the Program, a stock cooperative or limited equity housing cooperative is a rental housing development.

"Responsible agency" means the local finance entity under the sponsor development component, the local housing authority under the rights of occupancy component, or the Department under the housing authority development component. It includes the Department where the Department has contracted with a local finance entity pursuant to Section 50750 of the Code.

"Rural area" means any open country or any place, town, village, or city which by itself and taken together with any other places, towns, villages, or cities that it is part of or associated with:

(1) has a population not exceeding 10,000 or

(2) has a population not exceeding 20,000 and is contained within a nonmetropolitan area.

"Rural area" also includes any open country, place, town, village, or city located within a Standard Metropolitan Statistical Area if the population thereof does not exceed 20,000 and the area is not part of, or associated with, an urban area and is rural in character.

"Site control" includes actual ownership of a site, the right to purchase a site under a contract to purchase or option agreement, or such other con-

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trol of the ownership or possession of a site as the Department considers satisfactory.

"Sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian rancheria, or other legal entity, or any combination thereof, certified pursuant to Section 7812 as qualified to own and manage or construct a rental housing development. A sponsor may be organized for profit or limited profit or be nonprofit.

"State contract" means the contract between the Department and an applicant in accordance with Section 7822 which regulates the conduct of those entities.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50735 and 50737, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 10-25-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 44).

§ 7804. Priorities.

Priorities for allocation of Program funds for applicants shall be in accordance with the Department's guidelines for a rating system, and for the Agency, in accordance with the explanation by the Agency consistent with the requirements of this subchapter, which will give priority to housing developments which:

(a) are of the lowest cost possible, given Program requirements and local market conditions,

(b) incorporate innovative or energy-efficient design and construction techniques and higher densities, where such techniques and densities result in lower costs without reducing the quality of the housing.

(c) complement the implementation of a local housing program intended to increase the housing supply for persons and families of low or moderate income.

(d) have been subsidized beyond minimum requirements by

(1) funds, services or land contributed or received by the sponsor, or in the case of the housing authority development component by the local housing authority, or

(2) an allocation of Community Development Block grant funds for eligible expenditures including but not limited to rent subsidies, site acquisition, development costs and construction costs,

(e) use available funds in the most efficient manner to produce the maximum number of housing units, and

(f) are located within existing public transit corridors as defined in Section 50093.5 of the Health and Safety Code, to the extent feasible and consistent with the other priorities contained in this section. This priority shall not apply to rental housing developments located in rural areas.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

HISTORY

1. Amendment of subsection (d)(2), (e) and new subsection (f) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7806. Calculation of Affordable Rents.

(a) For the purposes of the Program, rent for the assisted units shall include all regular charges paid to a sponsor or local housing authority by an eligible household for the use and occupancy of an assisted unit in a rental housing development.

(b) Rent payable for assisted units occupied by very low income households shall be deemed affordable for the purposes of the Program if, including an allowance for utility costs, it does not exceed the greater of:

(1) A "base rent" of twenty-five percent (25%) of the amount payable to specific household sizes pursuant to Section 11453 of the Welfare and Institutions Code, as adjusted annually pursuant to Section 11453 of the Welfare and Institutions Code, and the size of the unit, as set forth below

1-BR Unit-2 person household
2-BR Unit-2 person household
3-BR Unit-4 person household
4-BR Unit-6 person household
5-BR Unit-8 person household

or, if higher,

(2) twenty-five percent (25%) of the income of such household.

(c) Rent payable for assisted units occupied by other lower income households shall be deemed affordable for the purposes of the Program if, including an allowance for utility costs, it does not exceed the greater of:

(1) a "base rent" of twenty-five percent (25%) of fifty percent (50%) of the area median income adjusted for family size of the geographical area in which the rental housing development is located, or, if higher,

(2) twenty-five percent (25%) of the income of such household.

(d) For the purposes of this section, "utilities" include garbage collection, sewer, water, gas, electricity and other heating, cooling or refrigeration fuels which are billed separately from the rent but do not include the cost of telephone service.

(e) The allowance for utility costs shall be calculated as follows: An estimate of utility usage and costs will be prepared for each assisted unit. Such estimate will be based on a reasonable use of utilities by a typical household and will take into account the size and energy efficiency of each unit, and the cost of such utilities then current with respect to the development, considering any subsidies to which the typical eligible household may be entitled. This estimate shall be the allowance for determination of affordable rent pursuant to subdivisions (b) and (c) for the first year of occupancy of the assisted unit. This estimate shall be reviewed annually, taking into account changes in utility costs, and the allowance for utility costs after approval by the Agency or responsible agency shall be adjusted accordingly and implemented pursuant to Sections 7864 and 7888.

(f) Notwithstanding any provision of this section, an eligible household shall not be entitled to receive any payment or "negative rent" if its allowance for utilities exceeds the amount specified in subdivisions (b)(1) or (b)(2) or (c)(1) or (c)(2).

(g) Notwithstanding any other provision of this Section, where assisted units are receiving subsidies under Section 8 of Title II of the Housing and Community Development Act of 1974 as amended, then the rents payable by tenants of such assisted units pursuant to the rules and regulations governing the Section 8 Program shall be deemed affordable for the purpose of this Program.

(h) Where the responsible agency or the Agency is authorized to fix and alter a schedule of rents necessary to provide residents of non-assisted units with affordable rents, to the extent consistent with the maintenance of the financial integrity of the rental housing development, the affordable rents, if any, will be determined by the responsible agency or the Agency on a case-by-case basis consistent with the calculation of rental income necessary to ensure the financial feasibility of the particular rental housing development.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50749 and 50759, Health and Safety Code.

HISTORY

1. Amendment of subsections (b), (c) and new subsection (g) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 10-25-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 44).

§ 7808. Component Accounts.

(a) The Fund is to be allocated to four component accounts, the Development Payments Account, the Annuity Fund Account, the Feasibility Account, and the Management Reserve Account. The Management Reserve Account shall consist of 4(four) percent of the amount in the Fund as of January 1, 1980. The Department shall allocate the remainder of the Fund to the remaining Accounts in such a way so as to ensure that the maximum number of assisted units is developed and maintained at affordable rents and not less than 20 percent of the Fund is allocated for annuity fund payments.

(b) The Department may direct the transfer of funds from one account to another consistent with legal requirements.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50738, 50740, and 50748, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

Article 2. Program Requirements

§ 7810. Eligibility of Sponsors.

(a) At the time of application for assistance for a proposed rental housing development, the applicant shall certify to the Department that the sponsor of the proposed rental housing development has or will have the capability to construct, or own and manage, such development in accordance with the criteria set out in subdivision (b).

(b) In determining the capability of a sponsor under this section, the Department and Agency or applicant shall take into account at least the following criteria:

(1) administrative capability,

(2) the sponsor's previous experience in design, construction and management of multi-family rental housing or the experience in such design, construction and management of staff or consultants employed or to be employed by the sponsor, taking into account the size and complexity of the proposed development,

(3) financial capability, and

(4) the possession of sufficient assets or credit to provide adequately for the predevelopment costs of the proposed rental housing development, and contingent expenses.

NOTE: Authority cited: Section 50732, Health and Safety Code. Reference: Section 50745, Health and Safety Code.

§ 7812. Eligible Projects.

(a) To be eligible for assistance under sponsor development component, the applicant must be the Agency or a local finance entity and a project must be a rental housing development with a sponsor and financed with below-market interest rate financing. In the rental housing development, no less than thirty percent (30%) of the units will be assisted units and no less than twenty percent (20%) of the units shall be available on a priority basis to or occupied by very low- income households, including all households with income equal to or less than fifty percent (50%) of the area median income adjusted for family size.

(b) To be eligible for assistance under the rights of occupancy component, a project must be a rental housing development with a sponsor in which a local housing authority will obtain rights of occupancy to at least thirty percent (30%) of the units, and no less than twenty percent (20%) of the units shall be available on a priority basis to or occupied by very low-income households, including all households with income equal to or less than fifty percent (50%) of the area median income adjusted for family size.

(c) To be eligible for assistance under the housing authority development component, a project must be a rental housing development:

(1) to be developed, constructed, owned and operated by a local housing authority;

(2) in which all of the units will be available to or occupied by eligible households at affordable rents; and

(3) in which two-thirds of the units will be available on a priority basis to or occupied by very low income households, and one-third available on a priority basis to or occupied by other low-income households.

(d) No development shall be eligible for assistance under this subchapter unless construction commenced on or after July 1, 1980. "Construction" for the purposes of this subdivision shall mean on-site improvements including the construction of the rental units and related structures, and excluding demolition, land fill, grading and site improvements intended for public dedication including sewers, utilities, and streets.

(e) No development shall be eligible for assistance under this subchapter unless:

(1) the locality in which the project will be located has an adopted housing element pursuant to Section 65302(c) of the Government Code which the Department has found to be in conformance with Section 65302(c) of the Government Code, or the locality, prior to approval of the project application, has an extension from the Office of Planning and Research pursuant to Government Code, Section 65302.6, to prepare a housing element; or

(2) the Department makes the following findings:

(A) that the proposed housing development has a satisfactory level of compliance with the priorities as set forth in Section 7804; and

(B) that there exists in the region a severe housing shortage for low and moderate income households, and notwithstanding the locality's failure to comply with State housing element requirements, there exists such an overriding need for the particular proposed housing development that state funding is justified.

Where the proposed housing development is a subdivision under the State Subdivision Map Act, the requirements of that Act and Government Code Section 66473.5, shall be met.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50736, 50745, 50755, 50765, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7814. Relocation Assistance.

In the event a tenant or owner is displaced because a local government or housing authority acquires property for a development assisted by the Program, the Relocation Guidelines, Title 25, California Administrative Code, Section 6000 et seq., apply to any displacement that results from such acquisition. With respect to any other residential tenants (not owner-occupants) who will be permanently or temporarily relocated due to a development assisted by the Program other than the right of occupancy component, but who are not assisted under the Guidelines, the following requirements will apply.

(a) Such tenants are eligible for relocation assistance and benefits described in this section if they are displaced after approval for financing by a local finance entity or the Agency unless the tenancy is terminated thereafter for good cause as set forth in Section 7860 or they take occupancy after the approval for financing with notice from the sponsor of the approval and potential displacement.

(b) Within a reasonable period of time prior to displacement, each tenant to be permanently relocated will be provided a reasonable choice of suitable replacement housing. "Suitable replacement housing" is:

(1) Decent, safe, and sanitary, and affordable as set forth in Section 7806, and

(2) In a location that is not generally less desirable than the location of the displaced tenant's existing dwelling with respect to public utilities, commercial and public facilities, social and economic characteristics, and the tenant's place of employment (or to sources of employment if the tenant is unemployed but employable).

Each tenant will be reimbursed by the owner for reasonable moving and related expenses as set forth in Section 6090 or may receive, at the discretion of the tenant, a fixed payment as set forth in Section 6098.

(c) A tenant may be required to relocate for a temporary period only if this is necessary to carry out the project and he/she is permitted to occupy a dwelling in the completed development or another assisted development in the area. The temporary relocation may not exceed 12 months in duration in a decent, safe, and sanitary dwelling and the tenant will be reimbursed for actual, reasonable, out- of-pocket expenses including moving costs to and from the temporary housing and any increase in the monthly housing cost (rent and reasonable utilities). If the new dwelling unit is not ready for occupancy within the 12-month period, the tenant will be notified of the earliest anticipated date of occupancy and will have the right to agree to wait until the extended date or to request treatment as being permanently displaced.

(d) All potential displacees will be provided advance written and oral information in a manner which ensures that they understand relocation opportunities and assistance. In addition, appropriate advisory services will be provided to minimize relocation hardships.

(e) No lawful occupant will be required to move from his/her residence without at least 90 days advance written notice of the earliest date by which he/she may be required to move and a 30-day notice prior to the actual date upon which a move is required.

(1) If a tenant is provided but refuses at least three (3) opportunities to move to suitable replacement housing, the sponsor will not be obligated to make further efforts to provide replacement housing.

(2) If affordable, replacement housing subject to subdivision (b) cannot be found, the sponsor's obligation under this section may be satisfied by providing the tenant with a lump sum payment equal to 48 times the amount, if any, necessary to reduce the monthly housing cost (rent and reasonable utilities) of an otherwise suitable replacement unit to an affordable level.

(f) A tenant who believes that this section has been violated may appeal first to the Agency or appropriate responsible agency, if appropriate, and if this appeal does not resolve the issue within a reasonable period of time, may appeal to the Department.

(g) Sponsors are responsible for assuring that payments and services required by this section are provided.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

§ 7816. Program Requirements.

(a) Except as set forth in Sections 7824 or 7874, no development payment under the sponsor development or housing authority development component shall exceed the lesser of:

(1) one hundred percent (100%) of the development cost of a rental housing development, and

(2) the amount required when considered with below market rate financing to enable the construction of the rental housing development or ensure the economic feasibility of affordable rents for the assisted units.

(b) In addition to other requirements of this subchapter, or all units assisted by the Program:

(1) at least two-thirds shall be made available on a priority basis to or occupied by very low income households, including all households with incomes equal to or less than fifty percent (50%) of the area median income adjusted for family size, and

(2) not less than twenty percent (20%) and not more than thirty percent (30%) shall be available on a priority basis to or occupied by the elderly or handicapped, and

(3) not less than ten percent (10%) shall be accessible to the physically handicapped and such units will be available by or occupied by the handicapped, and

(4) not less than twenty percent (20%) shall be located in a rural area.

(c) Funds sufficient for the construction of forty-eight (48) assisted units specially designed for the mentally and developmentally handicapped, and having access to special supportive services provided by an agency other than the Department, will be reserved for rental housing developments incorporating such units. This reservation of funds will terminate one year after the first Committee meeting. In addition to the reservation of funds for handicapped units under this subdivision, the Department sets as a non-binding goal the reservation of sufficient funds for a further forty-eight (48) such handicapped units until one year after the first Committee meeting. All handicapped units assisted under this subdivision shall be counted as units available to the elderly or handicapped for the purposes of subdivision (b)(2). No units assisted under this subdivision shall be counted as accessible to the physically handicapped for the purposes of subdivision (b)(3), whether or not so accessible.

(d) The Department establishes as a goal affirmative solicitation of and provision of technical assistance to nonprofit and cooperative sponsors.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50736, 50747, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) and (c) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 (Register 81, No. 16).

§ 7818. Assistance Payment Enforcement.

(a) If the development assistance payments are made by way of a loan, a deed of trust in favor of the Department, or in the case of payments made through the Agency, in favor of the Agency, securing said loan and the conditions of the regulatory agreement shall be executed which shall create a first or second lien on the housing development with respect to which said loan is made and shall be executed and recorded in accordance with existing applicable laws.

(b) If the development assistance payments are made by way of a grant, the regulatory agreement shall provide that failure to operate the development in accordance with the requirements of the Program shall be deemed to be a violation of the regulatory agreement and shall subject the sponsor to the procedure set forth therein.

(c) The provisions of Sections 7870, and 7892, as applicable, shall apply to the deed of trust or regulatory agreement.

(d) Contemporaneously with the execution and recordation of the deed of trust or regulatory agreement, the Agency or local finance entity shall cause to be recorded, or referenced to a recorded document, in the office of the county recorder of the county in which the assisted units are located, the document(s) evidencing the loan or a grant and conditions therein. It shall be indexed by the recorder in the Grantor Index to the name of the grantee and in the Grantee Index to the name of the State of California, and shall include a legal description of the assisted property that is the subject of the document(s).

(e) The obligations of the sponsor under the regulatory agreement shall provide the responsible agency with regulatory authority that is separate and distinct from, and is not dependent or conditioned upon, any financial interest or claim that such agency might otherwise have with respect to the sponsor on account of the development assistance payments.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50746, 50755, 50765, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 15).
3. Amendment of subsection (a) filed 10-25-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 44).

Article 3. Development Standards

§ 7820. Eligibility of Loan Finance Entities.

(a) Before the Department makes a conditional commitment to a local finance entity, it shall certify after receipt and review of an application that such entity has the capability of:

(1) ensuring the feasibility of the rental housing development,

(2) monitoring the design and construction of the rental housing development, and

(3) monitoring the management of the rental housing development for a period of thirty (30) years or the term of the below market interest financing, if any, whichever is greater.

(b) In determining the capability of a local finance entity, the Department shall take into account the following criteria:

(1) the entity's ability to provide below market interest financing, as evidenced by the market rating and other relevant factors of bonds issued or to be issued by such entity, or the entity's ability to provide other equivalent assistance, and

(2) administrative capability, as evidenced by the experience of such entity or staff or consultants employed or to be employed by such entity, in implementing grant or loan programs for housing rehabilitation or construction and management of government-assisted housing.

(c) A local finance entity may be eligible for assistance under the Program notwithstanding that it cannot meet the criteria for certification under this section, if:

(1) it is located in a rural area,

(2) the Department or an entity approved by the Department contracts or proposes to contract with it to ensure that the terms of the regulatory agreement between it and the sponsor are carried out, and

(3) the legislative body of the local finance entity consents to such a contract.

(d) A housing authority's eligibility shall be certified in the same manner as a local finance entity.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50745, 50750, Health and Safety Code.

§ 7822. Contracts and Agreements.

(a) All assistance provided by the Department shall be governed by contracts binding all applicants and sponsors in accordance with this section, except that assistance through the Agency shall be governed by an Interagency Agreement pursuant to Article 6, and the Agency's sponsors by Section 7882.

(b) Assistance to local finance entities under the sponsor development component shall be governed by a state contract between the Department and the local finance entity and by a development agreement and a regulatory agreement between the local finance entity and the sponsor.

(c) Assistance to local housing authorities under the rights of occupancy component shall be governed by a state contract between the Department and the local housing authority and by a regulatory agreement between the local and housing authority and the sponsor.

(d) Assistance to local housing authorities under the housing authority component shall be governed by a state contract, a development agreement and a regulatory agreement between the Department and the local housing authority. The terms of the contract and the agreements may be incorporated in a single document if the Department so requires.

(e) Provisions and requirements relating to assistance under the annuity trust fund shall be incorporated into the state contract and regulatory agreement governing assistance under the appropriate main component.

(f) Provisions and requirements relating to assistance under the management reserve account and the feasibility account may be incorporated by way of amendment into the state contract and regulatory agreement governing assistance under the appropriate main component.

(g) The Department may require such additional contracts and agreements between the Department, applicants and sponsors as it deems necessary to meet the purposes of the Program.

(h) All state contracts other than the Interagency Operational Agreement and all regulatory agreements shall be recorded or referenced in a recorded document in the office of the county recorder in the county in which the rental housing development to which they relate is located. When so recorded, they shall constitute a lien on the rental housing development in accordance with Section 7818 for the performance of conditions, including the payment of any money, specified therein. Recorded state contracts shall be indexed in the grantor index to the name of the sponsor and in the grantee index to the State of California. Recorded regulatory agreements shall be indexed in the grantor index to the name of the sponsor and in the grantee index to the name of the applicant.

(i) All state contracts and regulatory or development agreements shall contain such provisions as the Department considers necessary to meet the purposes of the Program, including but not limited to:

(1) a description of how the assistance under the Program will be used to ensure that each assisted unit will remain available on a priority basis to or occupied by eligible households for a period of not less than thirty (30) years or the term of the below market interest financing, if any, whichever is greater.

(2) specification of the amount, manner, terms and timing of payments, including annuity fund payments, by the Department and the applicant under state contracts and regulatory agreements, respectively, so as to ensure the economic feasibility of the rental housing development and to protect the interests of the State.

(3) requirements for reporting in accordance with Section 7850.

(4) a provision that the covenants and conditions of such contracts and agreements shall be binding upon the successors in interest to the parties thereto,

(5) a provision requiring that the local finance entity and sponsor agree to abide by the directives of the Department with respect to excess annuity fund payments and/or excess rent receipts when incoming from assisted units and/or annuity fund payments are greater than approved operating costs and when, in the Department's judgment, the assisted units can operate with less rent receipts and/or annuity fund payments, and

(6) a provision stating that the Department and the local finance entity, by mutual agreement, may reduce the number of assisted units in a rental housing development only if the annuity fund cannot provide adequate assistance to maintain the development's fiscal integrity. Any such reduction shall be reviewed no less often than annually as to its continued necessity.

(j) State contracts, in addition to provisions required in subdivision (i), shall contain provisions which:

(1) require the Department's approval of regulatory agreements and development agreements, or any amendments thereto, before such agreements or amendments are entered into by the parties thereto,

(2) assign to the Department the responsible agency's right to enforce the regulatory and development agreements in the event of the responsible agency's failure to enforce such agreements, and

(3) govern the use of annuity trust fund payments in accordance with Section 7834.

(k) Regulatory agreements, in addition to provisions required in subdivision (i), shall contain provisions which:

(1) restrict availability and occupancy of assisted units to eligible households, in accordance with this subchapter, for a period of no less than thirty (30) years or the term of the below market interest financing, if any, whichever is greater,

(2) specify the number of non-assisted and assisted units in the rental housing development and the projected rents for those units.

(3) with respect to the assisted units, specify tenant selection and occupancy standards in accordance with this subchapter,

(4) with respect to all units in the rental housing development, specify the terms of occupancy agreements in accordance with this subchapter,

(5) with respect to all units in the rental housing development, specify procedures for increases in rent in accordance with Section 7864,

(6) limit the sponsor's return on investment in accordance with Section 7866,

(7) make the agreement, or any amendment thereto, of no force or effect unless it has been approved by the Department before being entered into by the parties thereto.

(8) with respect to all units in the rental housing development, require for all documents made available or used by occupants, that copies be available in the language(s) commonly spoken by residents of the area, and

(9) with respect to the non-assisted units authorize the responsible agency to fix and alter a schedule of rents such as may be necessary to provide residents of the rental housing development with affordable rents to be consistent with the financial integrity of the rental housing development.

(10) with respect to all units in the rental housing development, require an annual budget in accordance with Section 7850.

(11) with respect to the assisted units in the rental housing development, require the return of all excess rents to the Department, and

(12) govern the establishment, procedures for use, and terms for recapture of the occupancy reserve and surplus payment reserve, if any, provided in subsection 7834(d).

(f) All development agreements shall contain provisions which:

(1) require, pursuant to state or federal law, payment of prevailing wage rates in the construction of a rental housing development,

(2) require, pursuant to state or federal law, the use of affirmative action by hiring by all contractors and subcontractors involved in the construction of a rental housing development,

(3) require, pursuant to state or federal law, such contractors and subcontractors to provide employment and training opportunities for building trades apprentices, and

(4) specify the building and property codes and standards applicable to the rental housing development.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50739, 50745, 50749, 50755, 50756, 50757, and 50766, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 80, No. 16).
3. Amendment of subsections (k) and (l) filed 10-25-82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 44).

§ 7824. Development Standards and Costs.

(a) All rental housing developments shall conform to all applicable state and local building codes, zoning ordinances, and general plan requirements. If a locality approves an exception to such ordinances and requirements in order to facilitate construction of a rental housing development, such a development shall be considered to be in compliance with the requirements of this section.

(b) To the maximum extent feasible, the units of a specific size and nature available to assisted and unassisted households in a development shall be alike in size, design and characteristics and such units shall not be segregated.

(c) Amenities in the development generally must be limited to those which are generally provided in conventional housing of modest design in the area. All amenities will be subject to strict scrutiny by the Department. The use of energy efficient construction techniques or materials, or more durable, high quality materials to control or reduce maintenance, repair, or replacement costs, will not be considered an excess amenity.

(d) The standards of this section shall be utilized by the Department in applying priorities pursuant to Section 7804.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

HISTORY

1. Amendment of subsections (b) and (c) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7826. Site Selection Criteria.

Proposed project sites must be certified by the applicant as meeting the following criteria:

(a) The site and neighborhood must be suitable for the type of housing proposed.

(b) The site must be free from severe environmental or social conditions, or such conditions must be mitigated when the housing is completed.

(c) The housing must be accessible to employment and to appropriate social, recreational, educational, commercial and health services that are typically found in the market-rate residential neighborhoods consisting largely of unassisted housing.

(d) The project must not be built on a site that has occupied residential structures which would be razed or from which residents would be permanently displaced, or has had such structures within the six months prior to application to the applicant.

(e) The project may not be built in an area identified as having special flood hazards unless the project is covered by flood insurance.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50737, 50737.5, Health and Safety Code.

HISTORY

1. Amendment of subsection (d) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register No. 16).

Article 4. Application Procedure and Review

§ 7830. Prerequisites of Applications.

(a) Prior to submission of an application to the Department, the sponsor, or the local housing authority in the case of an application under the housing authority development component, shall have site control of the site of the proposed rental housing development.

(b) Where the proposed rental housing development is likely to contain more than fifty (50) assisted units, the applicant shall give the Department advance notice of its proposed application. Such notice shall be given as far in advance of the submission of the application as possible, but generally no less than thirty (30) days before such submission. Such notice shall not constitute a pre-application, but is required to enable the Department to meet its regional and other allocation quotas.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

§ 7832. Applications for Development Payment.

(a) Pre-applications by local finance entities and local housing authorities are to be made on the Department's application forms and in accordance with the Request For Proposals and guidelines to be issued by the Department and shall be submitted in compliance with Department instructions.

(b) Assistance from the development payments account shall be used for the purpose of reducing approved development costs of assisted units so that rents in those units remain affordable to eligible households.

(c) The application shall provide all information required by the pre-application form, including but not limited to:

(1) evidence of eligibility of the applicant, including information required for certification under Section 7820.

(2) evidence of eligibility of the project for which the application is made,

(3) evidence of the applicant's and sponsor's compliance with the prerequisites for application in accordance with Section 7830,

(4) evidence of eligibility of the sponsor (including certification of capacity under Section 7810 of these regulations), or evidence of the capability of the local housing authority,

(5) a description of the proposed rental housing development, including the number and sizes of assisted and unassisted units, the number of structures, location, access to amenities, and suitability of site,

(6) a site map indicating the location of the assisted and nonassisted units,

(7) preliminary drawings of the assisted and non-assisted units,

(8) information as to the proposed construction of the rental housing development, including the general contractor's name and experience, if known, method of construction, incorporation of solar and energy efficient design features and systems, and other special features,

(9) information as to the financial aspects of the rental housing development, including the anticipated amount and form of assistance applied for, a general breakdown of development costs, anticipated sources and terms of financing, projected operating expenses, and a statement indicating how assistance under the Program will be used to provide affordable rents to eligible households in assisted units and how the economic integrity of the rental housing development will be maintained,

(10) information as to the planning aspects of the rental housing development, including anticipated or actual compliance with the local general plan and housing element, zoning, and access to utilities,

(11) a market analysis indicating the feasibility of the proposed project in view of existing market factors, including housing demand at comparable rents, area housing needs and income levels, and regional and local vacancy rates,

(12) information qualifying the applicant for consideration under any of the priority factors included in Section 7804,

(13) information as to the projected occupancy of the assisted units (elderly, family, and/or handicapped),

(14) information as to existing structures on the proposed development site, and

(15) any other information which the Department may reasonably require to determine the eligibility or appropriateness of the proposed rental housing development for assistance under the Program.

(d) The applicant shall provide all information required by the final application form, including but not limited to:

(1) a construction timetable and incorporation of prevailing wage, equal opportunity and apprenticeship requirements,

(2) a set of architectural drawings including location, type and design of energy system and provisions for passive solar design,

(3) information as to the sources and terms of financing,

(4) information as to access to utilities, services and employment, and

(5) any other information which the Department may reasonably require to determine the eligibility or appropriateness of the rental housing development for assistance under the Program.

(e) The applicant shall provide additional information before loan and grant closing, including:

(1) a relocation plan, if necessary, including a program for implementation pursuant to Section 7814,

(2) evidence of compliance or ability to comply with the California Environment Quality Act, and regulations promulgated thereunder, and if applicable, the California Coastal Act and other relevant state law, and

(3) any other information which the Department may reasonably require to determine eligibility or appropriateness of the rental housing development for assistance under the Program.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

HISTORY

1. Amendment filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).

§ 7834. Applications for Annuity Funds.

(a) Application for annuity fund payments shall be made on the Department's application form and provide all required information.

(b) When the Department determines that assistance from the development payments account is insufficient to provide affordable rents to eligible households in assisted units, assistance may be authorized from the annuity fund.

(c) Annuity fund loan and grant closing shall be concurrent with development payment(s) loan and grant closing.

(d) Assistance from the annuity fund shall be used for the purpose of reducing rent levels in assisted units so that rents in those units remain affordable to eligible households. Such assistance shall be used to subsidize approved operating costs of the assisted units. "Operating costs" means reasonable and justifiable costs for the following items:

(1) management, including a management fee (which includes all indirect and direct costs of collecting rents and any salary or other payment to an on–site manager), advertising, legal, accounting, and telephone;

(2) operations, including heating and lighting for common areas, water, elevator maintenance, common area maintenance and supplies, garbage and trash removal, payroll and payroll taxes, insurance, janitorial supplies, ground and drives maintenance, exterminating, and office supplies;

(3) maintenance, including decorating and repairs;

(4) vacancy reserve;

(5) replacement reserve;

(6) real estate taxes;

(7) in the case of cooperatives, an occupancy reserve which shall be for the purpose of providing downpayment loans to occupants of assisted units within the cooperative; and

(8) in the case of cooperatives, a surplus payment reserve which shall be for the purpose of reducing carrying charges to a household which initially occupied an assisted unit within the cooperative and whose income exceeds the income limits established by this Program.

(e) Applications for payments from the annuity fund, in addition to other information required by the Department, shall include:

(1) the anticipated amount of assistance, required, based on cost projections provided by the Department, and

(2) a description of how the annuity payments will be used for eligible costs to reduce rents to ensure the affordability of assisted units consistent with the fiscal integrity of the rental housing development.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50738, 50748, Health and Safety Code.

HISTORY

1. Amendment filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81 No. 16).
3. Amendment of subsection (d) filed 10–25–81; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 44).

§ 7836. Applications for Management Reserve Funds.

(a) Applications for management reserve funds shall be made on the Department's application form and provide all required information.

(b) Assistance from the management reserve account is available only to defray unavoidable cost increases in maintenance, taxes, utility or management costs, or charges for common areas and services, in order to maintain affordable rents in assisted units. Management reserve funds may be used only to the extent that;

(1) the annuity fund payment projected for the development is insufficient to provide rents that are affordable in the assisted units,

(2) there are insufficient annuity funds or excess rent revenues, and

(3) the sponsor can substantiate that the need for such funds is the result of unexpectedly low rent payments, extraordinary operational expenses, uninsured damages, or other extraordinary or unforeseen expenses approved by the Department.

(c) Applications for assistance from the management reserve account, in addition to other information required by the Department shall include:

(1) the anticipated amount of assistance required and the basis for the calculation of that amount,

(2) substantiation of the information required by subdivision (b), including the jeopardy to the fiscal integrity of the development,

(3) information as to how the cost increases will result in unaffordable rents in the assisted units, and

(4) what measures the applicant and sponsor have taken to reduce costs and to maintain the fiscal integrity and affordable rents in the future.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50770, Health and Safety Code.

§ 7838. Applications for Feasibility Account Funds.

(a) Applications for payments from the feasibility account shall be made on the Department's application form and shall provide all required information.

(b) Assistance from the feasibility account shall be available to defray development costs or short-term operational costs of non-assisted units if the Department determines that:

(1) additional payments are necessary to ensure the economic feasibility of the development,

(2) without additional payments the development could not or would not be undertaken, and

(3) sufficient funds are available to make such payments and not more than 10% of the Fund would be used for such payments.

(c) Applications for assistance from the feasibility account, in addition to other information required by the Department, shall include:

(1) the anticipated amount of assistance required and the basis for the calculation of that amount, and

(2) substantiation of the information required by subdivision (b).

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50738, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 36). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7840. Staff Review of Applications.

(a) Pre-applications will be reviewed to determine if they are complete, accurate, and generally in compliance with this subchapter. The Committee may establish application dates, prior to and subsequent to which no applications will be accepted for processing.

(b) Program staff shall review all pre-applications to determine their eligibility and the appropriateness of providing assistance from the Fund.

(c) In conducting its review, program staff shall, at a minimum:

(1) certify as to the capability of the local finance entity and the sponsor, if any, in accordance with Sections 7820 and 7812,

(2) determine the priority of the pre-application under Section 7804,

(3) establish compliance with Section 7812(e) and Department's Statewide Housing Plan,

(4) consider the allocation of assisted units throughout the state in accordance with identified housing needs and Section 7816(b), and

(5) review other relevant information to ensure that the application complies with the requirements and intent of the Program.

(d) On the basis of its review of the pre-application, Program staff will submit recommended pre-applications to the Committee for its consideration.

(e) When a pre-application is recommended to the Committee for review, the applicant shall be notified of the recommendation and the date and time of the Committee hearing considering the pre-application. When a pre-application is not recommended to the Committee for review, the applicant shall be notified of the negative recommendation of the pre-application, the reasons therefore, the right to appeal the action to the committee, and method and timing of such an appeal.

(f) After conditional commitment, the staff shall review the final application to determine compliance with all conditions. Material noncompliance with any condition, lack of progress in fulfilling conditions, and other material facts shall be reported to the Committee.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50737, 50737.5, Health and Safety Code.

HISTORY

1. Amendment of subsections (d), (e) and (f) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7842. Committee Review of Applications and Other Matters.

(a) The Committee shall be responsible for the review and recommendation of all pre-applications for assistance, the allocations for assistance, the allocation of Program funds between the component accounts established by this subchapter, and such other functions and duties as may be required by the Director.

(b) The Committee shall operate and consist of members as set forth in Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of Part 1 of Title 25, California Administrative Code.

(c) In reviewing any matter under this subchapter, the Committee shall consider the recommendations of Program staff; the application; and written or oral testimony, if any, from the applicant, the sponsor, or any other interested person.

(d) In its review, the Committee shall take into account:

(1) compliance with this subchapter,

(2) rating with respect to priorities,

(3) whether the provision of assistance to the sponsor will result in the most effective and efficient use of available funds,

(4) the geographic distribution of assisted units throughout the state in accordance with identified housing needs,

(5) the allocation of assistance pursuant to Section 7816(b),

(6) whether approval of the costs of permanent financing as developmental costs will reduce expenses to the Program over the life of the State Contract, and

(7) such other considerations as are consistent with the terms and objectives of the program.

(e) The Committee shall inform the Director in writing of its recommendation, stating:

(1) that it recommends for conditional commitment, postponed consideration of, or recommended rejection of the pre-application, or taken such other action with respect to other matters as is deemed appropriate,

(2) the conditions, if any, attached to its recommendation for conditional commitment or other directive of the reasons for its recommendation for rejection of postponement of consideration.

(f) The Committee, in any recommendation of approval of any pre-application, shall specify any terms, conditions, or special requirements which are not present in the pre-application, as well as form, term, and timing of assistance payments.

(g) The Committee, in reviewing the progress of developments, amendments of any agreements, or other actions permitted by the Program shall consider all relevant and available information prior to making a recommendation to amend, terminate or otherwise effect an application or development.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7844. Action by the Director and Applicant Request for Reconsideration.

(a) The Director shall, within (15) days of the Committee recommendation, inform the applicant in writing of his/her decision stating:

(1) that the pre-application has been approved for conditional commitment and condition, if any, attached to the commitment.

(2) that the pre-application has been postponed by the Committee and the date that it will be reconsidered or an explanation of the actions necessary for it to be reconsidered.

(3) that the pre-application has been rejected and the specific reasons for the rejection.

(b) If the applicant is dissatisfied with any action of the Director regarding the disposition of the pre-application, it may within thirty (30) days of the date of the Director's decision, request, in writing, a reconsideration of the decision, stating the items to be reconsidered and fully supporting the grounds for the reconsideration.

(c) With respect to any request for reconsideration pursuant to subdivision (b), the Director shall:

(1) within twenty (20) days of the date of documented receipt of the request hold an open hearing at which the applicant, sponsor, program staff and any interested person may make oral or written submissions as to the action the Department should take, and

(2) within thirty (30) days of the date of documented receipt of the request notify in writing the applicant of the Director's determination of the request.

(d) The Director's determination of the appeal shall be final.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 80, No. 16).

§ 7846. Disbursements.

(a) At the time of Department approval of pre-application, the Department shall reserve a sum of no more than 120% of the amount of assistance approved for a specific development for a period not to exceed one year. The Department shall disburse funds to the local finance entity or housing authority after closing of the loan and execution of the state contract or any amendment thereto, provided that all terms and conditions of the approved application are met, pursuant to the terms of the State contract.

(b) Upon receipt of funds from the Department, the responsible agency shall establish an appropriate project account and, pending further disbursements by the responsible agency, shall invest the funds and remit interest thereon to the Department at the time specified by the state contract. Funds from the account shall not be disbursed for the development except as permitted by this subchapter and the state contract, development contract, or regulatory agreement.

(c) With the written approval of the responsible agency the Department may disburse payments directly to the sponsor or its designee. However, the responsible agency shall ensure that all conditions precedent to such payment are to be met.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

Article 5. Operations

§ 7850. Reporting.

(a) The regulatory agreement between the sponsor and the responsible agency shall contain a requirement that the sponsor report to the responsible agency in a form approved by the Department at least annually.

(b) The state contract between the responsible agency and the Department shall contain a requirement that the responsible agency monitor the rental housing development and report annually to the Department in a form approved by the Department. Each report shall deal separately with each rental housing development for which the responsible agency is responsible and shall be submitted to the Department no later than ninety (90) days after the beginning of each fiscal year established for the rental housing development. The report shall contain such information as the Department may require, including but not limited to:

(1) the fiscal condition of the rental housing development, including an audited financial statement indicating surplus or deficits in operating accounts and the amount of any fiscal reserves,

(2) the substantial physical defects in the rental housing development, including a description of any major repair or maintenance work undertaken in the reporting year,

(3) the occupancy of the rental housing development indicating,

(A) the number and sizes of assisted units available to or occupied by eligible households,

(B) the distribution of incomes of eligible households,

(C) the ethnic groups to which eligible households belong, and

(D) the numbers of eligible very low income and other lower income households on waiting list for assisted units,

(4) general management performance, including tenant relations and other relevant information.

(c) The state contract between the responsible agency and the Department shall contain a requirement that no later than ninety (90) days before the beginning of each fiscal year established for the rental housing development the responsible agency shall submit to the Department a proposed budget for each rental housing development for which such agency is responsible. Such budget shall be in a form approved by the Department and shall include information as to projected rents, operating expenses and utility costs for the next fiscal year and carrying charges, including excess rents from the previous fiscal year, and shall be accompanied by a request for use of annuity funds or an application for management reserve or feasibility funds, if such funds are required to maintain the fiscal integrity of the rental housing development.

(d) The responsible agency shall immediately report to the Department any actual or impending default by the Sponsor under the Regulatory Agreement or deed of trust.

(e) Each rental housing development shall operate on a fiscal year determined by the Department and specified in the regulatory agreement.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50743, 50746, 50756, and 50766, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment of subsection (c) filed 10-25-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 44).

§ 7852. Contract and Agreement Amendments.

(a) The Department may approve an amendment to the state contract to reflect any change in development funds only:

(1) to correct substantial errors by the Department, the Agency, the local finance entity or the local housing authority in the original processing which would otherwise result in serious inequities,

(2) to reflect differing costs which result from new requirements imposed by local government, the Department, the Agency, local finance entities, the local housing authority, or federal agencies which are beyond the control of the owner, which have been approved by the Department, and which could not have been anticipated at the time the state contract was executed, or

(3) to reflect differing costs which result from a change in contractor which is necessary because the original contractor became bankrupt, was terminated by the sponsor due to inadequate performance or abandoned the job.

(b) Amendments pursuant to subdivision (a) will be limited to the amount necessary to cover the specific cost increase associated with the applicable item cited in the request and limited to a pro rata share based on the portion of the difference attributable to the assisted units. The Department shall not authorize a change in funding until such time as the local finance entity or housing authority has approved a proportional adjustment in development costs for the non-assisted units.

(c) Amendments of the state contract and regulatory agreement to increase or decrease the amount of annuity fund payments and/or increase

or decrease the number of assisted units shall be fully supported by circumstances requiring the adjustment, including the extent to which the cost changes were within the control of the sponsor. Such amendments shall be considered by the Department concurrently.

(d) Other amendments of the state contract and regulatory agreement to change any terms of the approved application shall be fully supported by circumstances requiring the amendment.

(e) Requests for any amendments permitted by this section shall be submitted to the Department at least three weeks prior to a scheduled meeting of the Committee.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50746, 50756, 50759, and 50765, Health and Safety Code.

§ 7854. Tenant Occupancy Standards.

(a) The regulatory agreement between the sponsor and the responsible agency shall require standards for occupancy of assisted units. Included in such standards shall be the requirement that one bedroom units shall be assigned ordinarily to single person households only when there are no efficiency units available.

(b) The general standards for determination of a tenant's unit size are as follows:

Unit Size	*Minimum No. of Persons in Household*	*Maximum No. of Persons in Household*
0–BR	1	1
1–BR	1	2
2–BR	2	4
3–BR	4	6
4–BR	6	8
5–BR	8	10

(c) Flexibility for assignment to a different sized unit is permitted if special circumstances warrant such an assignment and its reason are documented in the tenant's file.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50746, 50749, 50757, and 50766, Health and Safety Code.

§ 7856. Tenant Selection Procedures.

The regulatory agreement between the responsible agency and the sponsor shall require the development of tenant selection procedures which shall require at least the following plans and procedures with respect to the selection and admission of households applying to occupy assisted units and which, after approval by the responsible agency, shall form part of the regulatory agreement and be binding on the sponsor while the assistance remains in effect.

(a) An affirmative marketing plan shall be established which must include the following:

(1) Local residency requirements are prohibited. Local residency preferences are discouraged except as required by subdivision (b).

(2) Policies to achieve greater access to housing opportunities created by the Program for all persons regardless of race, sex, marital status, color, religion, national origin, handicap, other arbitrary factors.

(3) In general, all the requirements of the affirmative fair housing marketing plan required by Title 24, Code of Federal Regulations Section 883.315 and the Affirmative Fair Housing Marketing Regulations in Title 24, Code of Federal Regulations Sections 200.600 et seq., whether or not federal assistance is received.

(b) A tenant preference plan shall detail the manner in which the housing sponsor will give preference in the renting of units:

(1) To tenants displaced from housing by this or other government–assisted housing developments or by other governmental actions or natural disasters.

(2) To families with dependent children for multi–bedroom units.

(c) In the case of cooperatives, the tenant selection plan and procedures shall specify the selection criteria for membership, grounds for determination of unsuitability and procedures for appeal. Selection and suitability criteria shall not discriminate on the basis of race, religion, national origin, language, sex, source of income, handicap, family makeup, or any other arbitrary factor.

(d) The sponsor shall advertise and solicit applications from potential tenants in accordance with the approved marketing and selection plans. Applications shall be in a form approved by the Department and shall be available for examination by the responsible agency.

(e) On receipt of the application, the sponsor shall determine the eligibility and, in the case of cooperatives, the suitability of the household under this subchapter; verify the information supplied by the household in the application; and certify the income of the household for the purpose of determining the rent affordable to such household pursuant to Section 7806.

(f) If the sponsor determines that the potential tenant is eligible and, in the case of cooperatives, suitable, the sponsor shall promptly so notify the potential tenant of eligibility and, based on turnover history, when a unit may be available.

(g) If the sponsor determines that the potential tenant is not eligible or, in the case of cooperatives, unsuitable to occupy an assisted unit, the sponsor shall promptly notify the potential tenant in writing stating the reasons for such determination and the procedure for appeal pursuant to Section 7862.

(h) The sponsor shall compile an initial list of eligible households applying to occupy assisted units. Such a list will indicate whether such households are very low income households or other lower income households and after separating households into preferences pursuant to subdivision (b), shall place households in such groups in an order of priority determined by lot or another method approved by the Department. After initial tenancies, the priority shall be established in order of application, except that tenants entitled to preference shall receive preference over non–preference households.

(i) The sponsor may refuse to place an eligible household on the list required by subdivision (h) or remove such household from such list if the sponsor determines that such household has unreasonably provided false information in its application, or has, in the two years preceding the application, been evicted by a court of law on more than one occasion on grounds which were consistent with Section 7860(b), or in the case of cooperatives, on the grounds of unsuitability. The sponsor may not use status criteria including but not limited to source of income or marital status in determining eligibility. A potential tenant refused a rental unit or a place on a waiting list shall be notified in writing stating the reasons for such determination and the procedure for appeal of this decision pursuant to Section 7862.

(j) As assisted units become available, the sponsor shall offer them for occupancy by eligible households in accordance with the application date and with the requirement for occupancy by different income levels pursuant to the provisions of the regulatory agreement.

(k) Notwithstanding the provisions of this section, the Department may permit to be incorporated in a regulatory agreement such other tenant selection and occupancy standards as it considers necessary to ensure the fiscal integrity of the project, to ensure an adequate economic mix of income groups, or to require other reasonable standards where the nature or location of the rental housing development requires such standards.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50746, 50749, 50756 and 50766, Health and Safety Code.

HISTORY

1. Amendment filed 10–25–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 44).
2. Editorial correction of subsection (i) filed 11–2–82 (Register 82, No. 44).

§ 7858. Lease and Occupancy Procedures.

(a) Each household selected to occupy a unit in the rental housing development shall enter into a lease with the sponsor of the rental housing development. Such a lease shall be a standard form approved by the Department, including but not limited to the following terms:

(1) a tenancy from year to year, with a provision allowing the tenant to terminate the tenancy on thirty (30) days written notice to the sponsor or, in the case of cooperatives, terms to be approved by the Department,

(2) termination provisions in compliance with Section 7860.

(3) provisions relating to the annual recertification of the income of the tenant in an assisted unit in accordance with this section,

(4) provisions relating to security, cleaning and other deposits in accordance with law, and in the case of cooperatives, the downpayment,

(5) provisions requiring notice of approved rent increases pursuant to Section 7864.

(b) In the case of cooperative ownership, the sponsor shall have provisions for downpayments in accordance with the following:

(1) Downpayments as applicable to very low income households shall not exceed 2.5 percent of the prorated development cost for the unit, plus the equity appreciation at a rate approved by the Department.

(2) Downpayments as applicable to other lower income households shall not exceed 3.5 percent of the prorated development cost for the unit, plus the equity appreciation at a rate approved by the Department.

(3) The required cash contribution to be paid by an eligible household toward the downpayment at or before occupancy shall not exceed ten percent (10%) of the household's income over the preceding twelve (12) months.

(4) The cooperative may issue the tenant a loan equal to the difference between the downpayment and the cash contribution. The terms for such loan shall be approved by the Department, but in no case shall the total payments made during the year exceed the greater of ten percent (10%) of the original loan amount or one month's carrying charge determined at the most recent income recertification.

(c) The sponsor may establish reasonable rules of conduct and occupancy which shall be in writing, and given to each tenant.

(d) With respect to tenants of assisted units, the tenant's income shall be recertified once each year in accordance with the following procedure:

(1) The sponsor shall notify the tenant in writing thirty (30) days in advance of the impending recertification, requiring the tenant to submit to the sponsor a declaration of income within 30 days in a form approved by the Department; and

(2) The sponsor shall verify the accuracy of the declaration, certify the tenant's income accordingly and notify the tenant in writing of the certification and any resultant changes in the tenant's rent and right to occupy an assisted unit pursuant to subsections (e), (f), (g) and (h), and the tenant's right to appeal such determinations pursuant to Section 7862.

(e) Where the tenant in an assisted unit was a very low income household and on recertification the tenant's income exceeds:

(1) fifty percent (50%) of the area median income adjusted for family size but not the upper limit for lower income households, the tenant's rent shall be set no higher than twenty-five percent (25%) of the tenant's income including an allowance for utility costs in accordance with section 7806,

(2) the upper limit for lower income households, the tenant

(A) shall from the date of recertification pay rent equal to twenty-five percent (25%) of the tenant's income including an allowance for utilities, and

(B) shall have a right of first refusal where provided for in the regulatory agreement for any appropriate-sized, non- assisted unit in the rental housing development which becomes vacant within six (6) months of the date of recertification or their own unit if an appropriate-sized, non-assisted unit becomes occupied by an eligible household within six months. Where more than one tenant has such a right of first refusal the priority of each tenant's right of refusal shall be determined by lot, and

(C) shall be required to vacate the assisted unit no later than six (6) months from the date of recertification if the tenant's continued residency would cause a reduction in the number of assisted units occupied by eligible households in the development.

(f) Where the tenant in an assisted unit was a lower income household but not a very low income household and on recertification the tenant's income:

(1) falls below fifty-one percent (51%) of the area median income adjusted for family size the tenant shall pay rent pursuant to Section 7806(c)(1). When a vacancy occurs in an assisted unit in the rental housing development occupied until such vacancy by a household, with an income equal to or less than fifty percent (50%) of the area median income adjusted for family size, the tenant's rent shall be reduced to the amount set forth in Section 7806(b).

(2) exceeds the upper limit for lower income households, the provisions of subdivision (d)(2) shall apply.

(g) In case of cooperatives where the tenant in an assisted unit was a very low income household and on recertification the tenant's income exceeds:

(1) fifty percent (50%) of the area median income adjusted for family size but not the upper limit for lower income households, the provisions of 7858(e)(1) shall apply.

(2) the upper limit for lower income households but not in excess of ninety percent (90%) of the area median income adjusted for family size, the tenant shall from the date of recertification pay carrying charges equal to thirty-five percent (35%) of the tenant's income including an allowance for utilities.

(3) ninety percent (90%) of the area median income, adjusted for family size, the tenant:

(A) shall from the date of recertification pay a carrying charge equal to thirty-five percent (35%) of the tenant's income including an allowance for utilities but not to exceed the carrying charges of a nonassisted unit.

(B) shall have a right of first refusal where provided for in the regulatory agreement for any appropriate-sized, nonassisted unit in the cooperative which becomes vacant within twelve months of the date of recertification or their own unit.

(C) shall after twelve months pay carrying charges equal to the carrying charges for a equivalent nonassisted unit.

(h) In the case of cooperatives where the tenant in an assisted unit was a lower income household and on recertification the tenant's income:

(1) falls below fifty-one percent (51%) of the area median income adjusted for family size, the provisions of Section 7858(f)(1) shall apply.

(2) exceeds the upper limit for lower income households but is less than ninety percent (90%) of the area median adjusted for family size, the provisions of Section 7858(g)(2) shall apply.

(3) exceeds ninety percent (90%) of area median adjusted for family size, the provisions of Section 7858(g)(3) shall apply.

(i) In the case of cooperatives where the income of an existing member occupying an assisted unit exceeds ninety percent of the median income, the next comparable available unit shall be deemed an assisted unit.

(j) Except as specifically set forth in this subchapter, leases and landlord-tenant relationships shall be subject to California law.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50746, 50749, 50756 and 50767, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 10-25-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 44).
4. Editorial correction of subsection (d)(2) filed 11-2-82 (Register 82, No. 44).

§ 7860. Termination and Eviction.

(a) A tenancy in a unit in a rental housing development may be terminated without the termination being deemed an eviction under the following circumstances:

(1) death of the sole tenant of a unit,

(2) by the tenant at the expiration of a term of occupancy,

(3) by abandonment of the premises by the tenant, or

(4) with respect to a tenant of an assisted unit by a failure to maintain financial eligibility pursuant to Section 7858, providing the sponsor gives the tenant 60 days written notice of such termination.

Any termination of a tenancy other than those listed in this subdivision shall constitute an "eviction" and shall be effected only pursuant to the remaining provisions of the section.

(b) The sponsor shall not evict any tenant in violation of California law and only upon the following grounds: material noncompliance with the lease, material failure to carry out obligations under state law, or any other good cause which may include the refusal of a family to accept an approved modified lease. "Material noncompliance with the lease" includes one or more substantial violations of the lease or habitual minor violations of the lease which:

(1) disrupt the livability of a building,

(2) adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities,

(3) interfere with the management of the building, or

(4) have an adverse financial effect on the building. Rent shall be due on the first day of the rental period but will not be late until the sixth day of that period. Non-payment of rent or any other financial obligation under the lease after a three-day notice to pay rent or quit will constitute material noncompliance with the lease, but payment during such a period will constitute a minor violation.

(c) Notice of termination or eviction shall be provided to the tenant pursuant to law, except that such notice shall contain in addition to other required information, a statement of the facts constituting cause for eviction and the right of a tenant to a hearing pursuant to Section 7862 if a request for hearing is provided within the time permitted by the eviction or termination notice. If a hearing is requested within 10 days after service of a three day notice to pay rent or quit, that notice shall be operative until three days after a final decision is rendered in the hearing. No hearing shall be required if an eviction is noticed pursuant to Section 1161(4) of the Code of Civil Procedure.

(d) The procedure for eviction shall be pursuant to law, except that hearings pursuant to Section 7862 may be interposed upon timely request by the tenant.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50746, 50749, 50756 and 50767, Health and Safety Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 11-30-80 as an emergency; effective upon filing (Register 80, No. 46). Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7862. Appeal and Grievance Procedures.

(a) Each sponsor shall submit, together with its affirmative marketing program, proposed appeal and grievance procedures for resolving complaints by the sponsor concerning the sponsor's tenants and by its present or prospective tenants concerning the sponsor or the sponsor's other tenants. The proposed procedures shall be reviewed by and be subject to the approval of the Department, which shall require such modifications as may be necessary and appropriate. The procedures shall include feasible informal and formal mechanisms for dispute resolution as are appropriate given the nature of the housing sponsor, the size and nature of the development, and the characteristics of the tenants (including English language fluency). Where appropriate, the procedure shall provide that unresolved grievances or additional appeals shall be directed to the responsible agency for review and recommendation. The Department shall be the final authority for purpose of interpretation of the requirements of the Program, upon a written request for interpretation.

(b) A written copy of the approved grievance and appeal procedures shall be given to each tenant at the time of admission and thereafter as changes are approved, and to each prospective tenant upon rejection.

(c) Any grievance, including a contractual dispute, of a sponsor with another sponsor or its responsible agency shall be addressed first with the executive officer of that agency. If the matter is not resolved to the satisfaction of the sponsor, it may be addressed in writing to the Director of the Department.

(d) At a minimum, the tenant appeal and grievance procedure must include the following:

(1) Oral or written request for informal hearing written a reasonable time after the basis for appeal or grievance arose;

(2) A prompt informal hearing and written decision to the tenant including the right to a formal hearing;

(3) Oral or written request for a formal hearing within a reasonable time after such request and before an impartial person jointly selected by the sponsor and tenant. If they cannot agree on such a person, each may appoint a representative who, together, shall appoint a third person who shall comprise the hearing panel.

(4) The hearing be held in a manner to ensure fairness and the provision of basic safeguards of due process after at least three days written notice to the parties. The decision shall be based solely on a preponderance of evidence presented at the hearing.

(5) If the tenant or sponsor fails to appear at the hearing, the hearing officer or panel may, in its discretion, either postpone the matter for no more than five days or make a determination that the absent party waived the right to the hearing.

(6) Within two weeks of the request for the hearing, the hearing officer or panel shall prepare a written decision to be sent to the sponsor, tenant, responsible agency and Department.

(e) If the hearing relates to an eviction or termination, in addition to the requirements of subdivision (d), the procedure must include a requirement that the housing sponsor must first make a showing of "good cause" for eviction and must thereafter sustain the burden of proof as to that issue.

(f) Neither utilization of nor participation in any of the dispute resolution procedures in this section shall constitute a waiver of, or affect in any manner whatsoever, any rights of the tenant, prospective tenant, or sponsor may have to a trial de novo or judicial review in any judicial proceedings which may thereafter be brought in the matter.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50746, 50749, 50756 and 50767, Health and Safety Code.

§ 7864. Rent Increase Procedures.

(a) Base rents shall be adjusted within 60 days following adjustment of cost of living increases pursuant to Section 11453 of the Welfare and Institutions Code and publication of new area median incomes by the Department, and utility cost adjustments shall be made pursuant to Section 7806. A 30-day notice of utility allowance or base rent change shall be given to the tenant prior to the effective date of such an increase or decrease.

(b) Following completion of recertification of tenant income, a 30-day notice to the tenant of rent increase or decrease must be given prior to the effective date of such an adjustment.

(c) Prior to any change in the rent, the sponsor shall notify each tenant, in writing, of informal meetings with the sponsor to discuss the rent rate changes.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50749, 50759 and 50767, Health and Safety Code.

§ 7866. Return on Investment.

(a) A sponsor which is not a nonprofit corporation or a governmental agency shall be entitled to distribute earnings in an annual amount not to exceed six percent (6%) of the sponsor's actual investment in a rental housing development.

(b) Notwithstanding subdivision (a), the Committee may authorize such sponsor to distribute earnings of an amount greater than six percent (6%) but not to exceed ten percent (10%) on a family rental housing development if it determines:

(1) that without the allowance of such greater rate of return the Department would not be able to comply with the requirements of Section 50736 of the Code, and

(2) that such greater rate of return is reasonable taking into account all the circumstances of the rental housing development.

(c) At a time to be determined by the Department, the responsible agency shall certify to the Department as to the amount of the sponsor's investment on which the allowable return will be calculated. Such amount shall include the sponsor's actual investment in the rental housing development, other than any unaccrued liabilities of the sponsor.

(d) The funds for return on investment may be distributed to owners only at the end of each fiscal year as determined in the regulatory agreement and after all project expenses have been paid, or funds set aside for their payment; all reserve requirements have been met; and excess annuity payments and rents have been recaptured. Any shortfall in return on investment may be made up from surplus project funds in future years.

(e) The provisions of this section do not apply to sponsor's return on investment under the rights of occupancy component.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50746, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) and new subsection (e) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.

2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7868. Maintenance and Management.

(a) With respect to all units in the rental housing development, the sponsor is responsible for all management functions (including selection of tenants, recertification of family incomes, evictions and other terminations of tenants, and collection of rent) and all repair and maintenance of capital items.

(b) The standard of care under this section shall require that the units and common areas be maintained as required by local health and building or housing codes, that this subchapter be fully complied with, that the security of the State's interest not be endangered, and that the objectives of the Program be met.

(c) With the approval of the responsible agency and the Department, the sponsor may contract with a private or public entity for the performance of the services or duties required in subdivision (a). However, such an arrangement does not relieve the sponsor of responsibility for proper performance of these duties.

(d) The sponsor shall develop a management plan to be approved by the responsible agency and the Department. The plan shall include the following:

(1) The role and responsibility of the sponsor and its delegations of authority to the managing agent.

(2) Personnel policy and staffing arrangements.

(3) Plans and procedures for publicizing and achieving early occupancy.

(4) Procedures for determining tenant eligibility and for certifying and recertifying incomes.

(5) Plans for carrying out an effective maintenance and repair program.

(6) Rent collection policies and procedures.

(7) Program for maintaining adequate accounting records and handling necessary forms and vouchers.

(8) Plans for tenant-management relations.

(9) Social service programs, if any.

(10) Management agreement.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50737, 50758, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.

2. Certificate of Compliance transmitted to OAL 3-13-81 (Register 81, No. 16).

§ 7870. Transfer, Foreclosure, Breach, or Termination of Assistance.

(a) If the sponsor intends to sell or convey the rental housing development, express, prior written approval of both the local finance entity and the Department is required and may be given provided that the following terms shall be incorporated:

(1) The successor in interest to the grantor agrees to assume the obligation of the grantor relating to the Program.

(2) The successor in interest is an eligible sponsor and demonstrates that it can successfully own and operate the rental housing development.

(b) If the payment of development assistance is accomplished by way of loan, a deed of trust securing said loan shall provide, among other things, that the responsible agency, upon default in payment or conditions of the loan by the sponsor under the terms of the deed of trust and in the responsible agency's discretion, either may declare all sums secured thereby immediately due and payable by executing and recording or causing to be executed and recorded a notice of default and election of sale or by commencing an appropriate foreclosure action. In addition, upon the occurrence of a default, the responsible agency may, in person, by agent or by receiver appointed by a court enter upon and take possession of the rental housing development, collect all rents, and perform any acts necessary to maintain or operate it, in such a manner as to not cause the default of a superior creditor or the cessation of any other subsidies.

(c) If the payment of development assistance is accomplished by way of grant, the responsible agency, at its discretion, may demand repayment of the grant less an amount equivalent to the value of prior use of the premises or seek enforcement by proceeding at law and/or in equity, at the option of the responsible agency, against any person or persons or entity violating or attempting to violate any covenant or condition of the regulatory agreement.

(d) Prior to taking any action under subdivisions (b) or (c), the responsible agency shall:

(1) provide the sponsor with 30 days notice of the breach or default, and seek and encourage correction or compliance,

(2) provide the Department 14 days written notice of the breach and then the intention to foreclose, default, or litigate, and

(3) obtain Department approval for the action intended, which approval shall not be unreasonably withheld.

(e) In the event of foreclosure or forced sale, the purchaser shall take title subject to these conditions and limitations.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50746, 50755 and 50765, Health and Safety Code.

HISTORY

1. Amendment of subsection (e) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

Article 6. CHFA Developments

§ 7871. Committee Advice and Actions.

(a) Excepting subdivision (b) and Section 7878(d), projects processed under the authority of this article shall not be subject to the provisions of Subchapter 1 of Chapter 6.5, commencing with Section 6900. However, the Committee shall be constituted as set forth in Section 6902(c) and may provide advice to the Director with respect to the compliance of the application with program objectives and requirements. The Committee's advice may include a recommendation to approve, approve with conditions, or reject the application.

(b) In addition to the power of review and recommendation set forth in Section 7878(d), the Committee may recommend denial of any action or decision by the Director within 45 days of that decision or at the next Committee meeting at which time the matter can be properly included in the agenda, whichever comes first. Such actions or decisions which are properly within the scope of review shall include, but not be limited to:

(1) the preparation or dissemination of the allocation plan,

(2) the establishment of the return on investment of any sponsor,

(3) the terms of commitment or disbursement of funds to the Agency,

(4) the approval of and amendments to the Interagency Agreement or other agreements with the Agency affecting the operation of the Program.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7872. Site Selection.

Proposed development sites must be certified by the Agency as meeting the following criteria:

(a) The site and neighborhood must be suitable for the type of housing proposed.

(b) The site must be free from severe adverse environmental or social conditions, or such conditions must be mitigated when the housing is completed.

(c) The housing must be accessible to employment and to appropriate social, recreational, educational, commercial and health services that are typically found in market-rate residential neighborhoods.

(d) The project must not be built on a site that has occupied residential structures or has had such structures within the six months prior to application to the applicant.

(e) The project may not be built in an area identified as having special flood hazards unless the project is covered by flood insurance.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50737, 50737.5, Health and Safety Code.

§ 7874. Development Standards and Costs.

(a) All rental housing developments shall conform to all State and local building codes, zoning ordinances, and general plan requirements.

(b) A project must not separate, segregate or otherwise physically distinguish assisted units from non-assisted units.

(c) Amenities in the development generally must be limited to those which are generally provided in unassisted housing of modest design in the area. All amenities will be subject to strict scrutiny. The use of energy-efficient construction techniques or materials, or more durable, high quality materials, to control or reduce maintenance, repair, or replacement costs will not be considered an excess amenity.

(d) The standards of this section shall be utilized by the Agency in applying priorities pursuant to Section 7876.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

§ 7876. Interagency Operating Agreement.

The Department and the Agency shall enter into an Interagency Operating Agreement which shall specify their respective obligations. The Interagency Operating Agreement shall include, but not be limited to, the following items:

(a) The Department shall establish an allocation plan which shall provide the Department with a mechanism for balancing the Program's requirements while providing flexibility to the Agency to seek to balance its overall production in order to meet its statutory requirements. The plan, prepared at regular intervals by the Department, shall establish allocations for the number, type, geographic distribution and other relevant criteria of assisted units to be submitted to the Department for approval within a specified period.

(b) In accordance with the allocation plan, the Agency shall, on a project-by-project basis, select projects after considering the program priorities and their consistency with other Program requirements and objectives.

(c) The Department and Agency shall specify the means by which the Department may enforce the breach of any Agreement between the Agency and a Sponsor.

(d) The Agency and Department shall agree to a method of resolving any differences of opinion as to the requirements, objectives, or intent of the Program.

(e) The Department shall agree to set aside forty percent (40%) of the moneys in the fund as of July 1, 1980, to assist rental housing developments financed by or through the Agency. Such funds shall be approved for expenditure by application approval within two (2) years after promulgation of the initial allocation plan; funds remaining at that time shall become available to local finance entities, housing authorities, or the Agency on an equal basis.

(f) Prior to any disbursement of funds to the Agency, the Agency and Department shall enter into a state contract for each development in accordance with Section 7882. The state contract shall be recorded or referenced in the office of the county recorder as set forth in Section 7882 (e).

(g) At the time of Department approval of an application, the Department shall transfer to the Agency a sum equivalent to 120% of the amount of assistance approved for a specific development, or such lesser amount as requested by the Agency. Within one year thereafter unless an extension is granted by the Department, the agency shall fund the loan for the development; if the loan is not funded within the approved term, the sum and all interest collected thereon shall be transferred to the Department.

(h) Upon receipt of the funds from the Department, the Agency shall establish an appropriate project account and, pending disbursements by the Agency, shall invest the funds in an interest-bearing account or security. Funds from the account shall not be disbursed for the development except as permitted by this subchapter, the Interagency Agreement, and the state contract.

(i) The Agency may apply to the Department for funds not to exceed an amount proportionate to its set-aside from the feasibility account and the management reserve account pursuant to the procedure set forth in Section 7878 except that the application shall contain only that information reasonably required by the Department and relevant to the specific application.

(j) The Agency and Department shall agree that any excess funds returned to or retained by the Agency shall be promptly returned to the Department for deposit in the Agency set-aside.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50739, 50740, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7878. Application Procedure.

(a) Subject to the Program and the allocation plan, after the Agency has approved a site for a proposed project, it may apply to the Department requesting authority to set-aside moneys to assist the project.

(b) The application shall consist of:

(1) a description of the proposed project including the number and size of assisted units,

(2) a description of the amount and form of assistance requested and an assurance that the assisted units will be made affordable.

(3) a certification that the sponsor is capable of meeting all other responsibilities necessary to develop, construct, market, and manage the project in a manner consistent with the goals and requirements of the Program,

(4) a description of special construction techniques and energy efficiency characteristics, if any,

(5) certifications that the proposed project will be consistent with local planning requirements,

(6) certification that the project will be economically feasible,

(7) a certification that the project complies with the appropriate allocation plan, and

(8) an explanation of the extent to which the proposed project qualifies under the priorities of the Program.

(c) Upon submission of the application to the Department, the Department shall review the application and accept as correct any statement in the application unless the Department has substantial reason to question the completeness of the application or the correctness or completeness of any element in the application. When the Department so questions, it shall promptly notify the Agency, and the Agency may provide additional documentation to the application or in support of any element thereof. When the Agency provides such documentation, the Department will act in accordance with the Agency's judgment or evaluation and may not deny the application unless the Department determines that the application or any element thereof is not complete or is clearly not supported by the facts. If the Agency does not provide additional documentation, the Department shall take its action based upon the information and certifications already provided. In addition to the review set forth in this subdivision, the Department shall determine whether the proposed development complies with the local housing element or extension thereof; such a determination shall be required for approval.

(d) The agency shall submit each application according to a schedule established by the Department. Within 35 days after each such submission, the Director shall notify the Agency and Committee in writing that the application is:

(1) approved,

(2) approved only if specified deficiencies are corrected and the Department receives amendments to the application necessary to correct the deficiencies within a specified time, or

(3) not approved with a statement of the reasons for disapproval. The Director's decision shall be valid unless within 45 days or at the next Committee meeting at which the matter can be properly included in the agenda whichever occurs first, the Committee reviews and recommends denial of any decision on an application by the Director, excluding appeals. Such a recommendation shall be deemed to be a denial of the application.

(e) If the Agency is dissatisfied with the denial of its application, the reduction of the amount applied for, actions pursuant to Section 7871, or any conditions attached to the approval of its application, it may, within thirty days of the date of the decision, appeal in writing to the Director of the Department, stating and fully supporting the grounds of its appeal.

(f) If the Agency appeals to the Director pursuant to subdivision (e) the Director shall:

(1) within twenty (20) days of the date of documented receipt of the appeal hold an open hearing at which the Agency, sponsor, program staff and any interested person may make oral or written submission as to the action the department should take with respect to the application, and

(2) within thirty (30) days of the date of documented receipt of the appeal notify in writing the Agency of the Director's determination of the appeal. The Director's determination of the appeal shall be final.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50737, 50745, Health and Safety Code.

HISTORY

1. Amendment of subsection (d) filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).

§ 7880. Financing.

(a) Projects assisted pursuant to the Interagency Operating Agreement shall utilize below market interest rate financing consistent with the objectives of the Program and acceptable to the Department. Such financing shall be on terms and conditions set forth or approved by the Agency and may be for construction loans and/or permanent mortgage loans.

(b) With respect to each project assisted pursuant to this Article, the Agency shall employ such methods, techniques, investigations, tests, analyses, studies and evaluations which in the Agency's judgment, are necessary to assure that the projects proposed for assistance meet the objectives and requirements of the Program, and are substantially consistent with the approved application.

(c) The Agency shall establish such accounts as it deems necessary to comply with the requirements of the Program.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50737, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).

§ 7882. Contracts and Agreements.

All developments financed by the Agency shall be governed by contracts and agreements, including but not limited to:

(a) a state contract which shall contain, at a minimum, provisions which:

(1) describe how the assistance under the Program will be used to ensure that each assisted unit will remain available to or occupied by eligible households for a period of not less than thirty (30) years or the term of the below market interest financing, if any, whichever is greater,

(2) specify the amount, manner, terms, and timing of payments by the Department and the Agency under this contract and the Agency and sponsor under the regulatory agreement or assistance payments contract, as appropriate, so as to ensure the economic feasibility of the rental housing development and to protect the interests of the State,

(3) specify all terms and conditions of the application approval,

(4) specify the requirements for reporting in accordance with Section 7884,

(5) provide that the terms of such agreements, as they affect the assisted units shall be binding upon the successors in interest to the parties thereto,

(6) establish that the terms of repayment of excess funds and rental payments by the Agency to the Department, and

(7) establish the grounds upon which the Agency may reduce the number of assisted units in a rental housing development only if the assistance provided by the Department or Agency cannot provide adequate assistance to maintain the development's fiscal integrity. Any such reduction shall be reviewed no less often than annually as to its continued necessity.

(b) a Management Agreement,

(c) an Assistance Payments Contract which shall set forth terms, conditions, and requirements governing the payment, receipt and use of assistance payment moneys,

(d) a Regulatory Agreement which shall contain, at a minimum, provisions which:

(1) restrict availability and occupancy of assisted units to eligible households, at affordable rents,

(2) specify the number of units and assisted units in the rental housing development and the projected rents for those units, and the manner and conditions under which the ratio of assisted to non–assisted units may be changed,

(3) specify procedures for setting rents and calculating utility allowances consistent with this subchapter,

(4) require payment of prevailing wage rates and hiring of apprentices with respect to construction of the project,

(5) provide for return on investment pursuant to Section 7890,

(6) keep the regulatory agreement in effect so long as Agency financing for the housing development remains outstanding, or thirty (30) years, whichever is greater, and to adequately secure such an agreement,

(7) require that the sponsor agree to abide by the directive of the Agency regarding assistance payments where the project, in the Agency's judgment, can operate consistent with the Program with less or no assistance,

(8) require regular reports as required by the Agency,

(9) specify tenant selection and occupancy standards in accordance with the Program,

(10) specify the terms of occupancy agreements,

(11) require that copies of appropriate documents be available in the language(s) commonly used by residents of the area, and

(12) incorporate additional reasonable requirements of the Department or the Agency.

(e) The Department, after Committee approval, may require such additional contracts and agreements between the Department and Agency or the Agency and sponsors as it deems necessary to meet the purposes of the Program or the requirements of the Code.

(f) All agreements and contracts, other than the Interagency Operating Agreement, or one document referencing all other documents, shall be recorded in the office of the county recorder in the county in which the rental housing development to which they relate is located. When so recorded, they shall constitute a lien on the rental housing development in accordance with this subchapter for the performance of conditions, including the payment of any money, as specified herein. Recorded agreements shall be indexed in the grantor index to the name of the sponsor and in the grantee index to the State of California.

(g) Any amendment to any agreement or contract which has a material effect on the interests of the Department, must be approved in advance, by the Department. Any amendment to any document approved by the Department pursuant to this subchapter shall be reported at the time reports pursuant to Section 7884 are made.

(h) Prior to their use, any agreement, contract, or other document which effects the interest of the Department, must be approved in form and substance, by the Department. This requirement does not apply to approval of each individual document before execution or use, but only to general review, unless substantive changes or additions are made tot he contract at or before the time of execution. Copies of all loan closing documents shall be provided to the Department.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50739, 50745, 50746, 50749, Health and Safety Code.

HISTORY

1. Amendment of subsection (f) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7884. Reporting.

(a) The regulatory agreement between the sponsor and the Agency shall contain a requirement that the sponsor report to the Agency at least annually.

(b) The Interagency Operating Agreement shall contain a requirement that the Agency report annually to the Department in a form approved by the Department. Each report shall deal separately with each rental housing development for which the Agency is responsible and shall be submitted to the Department no later than October 31 in each year. The report shall contain such information as the Department may reasonably require, including but not limited to:

(1) the fiscal condition of the rental housing development, including an audited financial statement indicating surpluses or deficits in operating accounts and the amounts of any fiscal reserves,

(2) the substantial defects in physical condition of the rental housing development including a description of any major repair or maintenance work undertaken in the reporting year,

(3) the occupancy of the rental housing development indicating:

(A) the number and sizes of assisted units available to or occupied by eligible households,

(B) the distribution of incomes of eligible households,

(C) the ethnic groups to which the eligible households belong, and

(D) the number of eligible very low income and other lower income households on waiting lists for the assisted units,

(4) general management performance including tenant relations and other relevant information.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50743, 50746, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 11-13-80 as an emergency; effective upon filing (register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7886. Tenant Selection and Occupancy Standards and Procedures.

With respect to the assisted units, except as otherwise required by the Program, the sponsor shall develop tenant selection and occupancy standards and procedures which comply with the requirements of Article 5 (commencing with Section 11401) of Chapter 2 of Part II of Title 25, California Administrative Code.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Sections 50746, 50749, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

§ 7888. Rent Adjustment Procedures.

(a) With respect to the assisted units, tenant's incomes shall be recertified once each year for households in family projects and at least once every two years for households in elderly projects.

(b) If, upon recertification, there have been changes in the household income, the household's rent shall be re-established in accordance with Section 7806, or established at market rent, whichever is indicated.

(c) Base rents may be adjusted at any time following adjustment of cost of living increases pursuant to Section 11453 of the Welfare and Institutions Code and publication of new area median incomes by the Department, and utility cost adjustments shall be made pursuant to Section 7806. A 30-day notice of utility allowance or base rent change shall be given to the tenant prior to the effective date of such an increase or decrease.

(d) Following completion of recertification of tenant income, a 30-day notice to the tenant of rent increase or decrease must be given prior to the effective date of such an adjustment.

(e) Prior to any change in rent, the sponsor shall notify each tenant, in writing, of informal meetings with the sponsor to discuss the rent changes.

(f) Where rents in assisted units are established and charged pursuant to Section 7806(g), then rents shall be adjusted in accordance with the rules and regulations governing the Federal Section 8 program.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50749, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. New subsection (f) filed 10-25-82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 44).

§ 7890. Return on Investment.

(a) A sponsor which is not a nonprofit corporation or a governmental agency shall be entitled to distribute earnings in an annual amount not to exceed six percent (6%) of the sponsor's actual investment in a rental housing development, excluding unaccrued liabilities of the sponsor.

(b) Notwithstanding subdivision (a), the Committee may authorize the distribution of earnings of an amount greater than six percent (6%) but not to exceed ten percent (10%) on a family rental housing development if, at the request of the Agency, it determines:

(1) that without the allowance of such greater rate of return the agency would not be able to comply with the requirements of this subchapter, and

(2) that such greater rate of return is reasonable taking into account of the circumstances of the rental housing development.

(c) By a time to be determined by the Agency, the Agency shall report to the Department as to the amount of the sponsor's investment on which

the allowable return will calculated. Such amount shall include the sponsor's actual investment in the rental housing development, other than any unaccrued liabilities of the sponsor.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50746, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 11–13–80; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).

§ 7892. Transfer, Foreclosure, Breach, or Termination of Assistance.

(a) If the sponsor intends to sell or convey the rental housing development, express, prior written approval of the Agency is required and may be given provided that the following terms shall be incorporated:

(1) The successor in interest to the grantor agrees to assume the obligations of the grantor relating to the Program specified in the regulatory agreement.

(2) The successor in interest is an eligible sponsor and demonstrates that it can successfully own and operate the rental housing development.

(b) The Agency, at its discretion, may demand repayment of the grant or a lesser amount equivalent to the value of prior use of the premises or seek enforcement by proceedings at law and/or in equity, at the option of the Agency, against any person or persons or entity violating or attempting to violate any covenant or condition of the regulatory agreement.

(c) Prior to taking any action under subdivision (b) or (c), the Agency shall:

(1) provide the sponsor with 30 days written notice of the breach or default, and seek and encourage correction or compliance,

(2) provide the Department 24 hours notice of the breach and the intention to foreclose, default, or litigate, and

(3) consult with the Department regarding action intended.

NOTE: Authority cited: Section 50737, Health and Safety Code. Reference: Section 50746, Health and Safety Code.

Subchapter 11. Homeownership Assistance Program

Article 1. General

§ 7900. Scope and Authority.

(a) These regulations implement and interpret the Homeownership Assistance Program, Sections 50775 through 50779, inclusive, of the Health and Safety Code. They establish procedures for the allocation of financial assistance to eligible households to enable them to acquire ownership of housing which they would otherwise be unable to purchase. They also delegate authority from the Director of the Department of Housing and Community Development to a committee established pursuant to Title 25, California Administrative Code, Section 6902 (d) for the review and recommendation of financial assistance under the Program.

(b) The program is divided into four main components which delineate the different situations in which purchases will be assisted for eligible households. The four main components consist of:

(1) assistance to eligible households to purchase rental housing (including spaces in mobilehome parks) being converted to condominium or cooperative ownership;

(2) assistance to eligible households to purchase mobilehomes on permanent foundations and not located within mobilehome parks;

(3) assistance to nonprofit and stock cooperative corporations to purchase or develop mobilehome parks; and

(4) assistance to eligible households to purchase shares in a cooperative corporation which owns a mobilehome park.

NOTE: Authority cited: Sections 50406, 50775, 50776, 50777, and 50778, Health and Safety Code. Reference: Sections 50775, 50776, 50777, and 50778, Health and Safety Code.

HISTORY

1. New Subchapter 11, Articles 1–4 (Sections 7900–7938, not consecutive) filed 7–11–80; effective thirtieth day thereafter (Register 80, No. 28).
2. Amendment of subsection (a) filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
3. Certificate of Compliance including amendment transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).

§ 7902. Definitions.

The following definitions shall govern the Program:

"Assisted property" means property which has been purchased with assistance under the Program.

"Code" means the California Health and Safety Code.

"Committee" means the Committee established pursuant to Title 25, California Administrative Code, Section 6902(d).

"Converted" means, with respect to a rental unit or housing development, a change in tenure from rental to condominium or cooperative ownership where a final public report has been issued by the California Department of Real Estate relating to such change in ownership.

"Cooperative corporation" means an entity established as as a stock cooperative corporation as defined by Section 11003.2 of the Business and Professions Code.

"Debt service" means the total monthly payments of principal and interest on a mortgage loan for the assisted property, any loan insurance fees associated with the loan, property taxes and assessments, and fire and casualty insurance. Where debt service is in connection with purchase of a space or a right of occupancy of a space in a mobilehome part, such debt service shall include any debt service which exists with regard to a mobilehome located on such space.

"Department" means the California Department of Housing and Community Development.

"Development cost" means the aggregate of all costs incurred in connection with construction of a mobilehome park including, but not limited to, the cost of:

(1) land acquisition, whether by purchase or lease;

(2) overhead, including engineering, architectural, legal and accounting fees;

(3) construction of the mobilehome spaces and related structures;

(4) off–site improvements, including utilities, sewers and streets;

(5) construction of necessary support and community facilities;

(6) necessary on–site improvements;

(7) acquisition and installation of mobilehomes, including accessory buildings and structures as defined in Section 19213 of the Code; and

(8) moving expenses of households displaced as a result of the development of the mobilehome park.

Development costs do not include the cost of permanent financing of a mobilehome park or mobilehome space.

"Down payment" means an initial payment made by a purchases which contributes to the purchase of assisted property.

"Eligible Household" means a person or family:

(1) whose income does not exceed the median income of the county in which the property eligible to to purchased under this Program is located. Such income shall be calculated in accordance with adjustments for family size established or published by the Department;

(2) who does not at the time assistance is provided to it under the Program, or has not in the three (3) years immediately preceding the provision of such assistance, owned any residential real property, other than a mobilehome not affixed to permanent foundation;

(3) who has not previously received any direct assistance under this Program; and

(4) who would be unable to purchase eligible property without assistance under the Program as determined by Section 7908.

The provision of assistance pursuant to Section 7904(a) (3) shall not be construed to render a household ineligible for assistance pursuant to Section 7904(a) (4) of these regulations.

"Financial assistance" means monies from the Fund.

"Fund" means the Homeownership Assistance Fund.

"Governmental agency" means a city, county, or city and county within the State and any department, division, or public agency of the State including a housing authority, redevelopment agency, or community development commission; or two or more of such entities acting jointly; or the duly constituted government body of an Indian reservation or rancheria.

"Gross income" means all income as defined by Title 25, California Administrative Code, Section 6914 excluding the definition of "net family assets" in subdivision (b) of Section 6914 which for the purpose of the Program shall be defined as provided in Section 7908 (b) of these regulations.

"Improvements" means substantial repairs, renovations or additions undertaken with respect to property purchased with assistance under the Program, which increase the value of such property or bring such property into conformance with local or state building or housing standards.

(1) "improvements" includes:

(A) replacement of built-in appliances, fixtures and equipment which were originally sold as part of the unit, and will remain a part of the unit, or replacement of structural components of the unit, including a roof, plumbing and electrical systems, provided that replacement is required by the nonoperative, deteriorated, or obsolescent nature of the original appliance, fixture equipment or structural component;

(B) replacement to the common area of a condominium cooperative or mobile home park resulting in a mandatory assessment by a homeowners association or cooperative corporation and;

(C) permanent additions to the unit including, but not limited to, rooms, carports, cabanas, awnings, decks, air conditioning.

(2) "Improvements" does not include:

(A) Routine or cosmetic maintenance such as painting and replacement of carpet, broken windows and screens which is necessary due to normal wear and tear; and

(B) replacement or repair of items damaged or destroyed because of a fire or natural disaster, unless such activity is necessary to bring such property into conformance with local or state building or housing standards.

"Interim financing" means a short-term mortgage loan which is repaid when permanent financing is secured. "Interim financing" includes a land acquisition loan and a construction loan to finance the construction of land improvements.

"Mobilehome" means a structure as defined by Section 18211 of the Code.

"Mobilehome park" means a mobilehome site as defined by Section 18214 of the Code and, for the purposes of this program, shall include sites where spaces are individually owned by occupants of the park or owned by a stock cooperative corporation.

"Monthly housing cost" means the total of monthly payments of principal and interest on a mortgage loan or loans, any loan insurance fees associated with the loan(s), property taxes and assessments, fire and casualty insurance, property maintenance and repairs, utilities (not including telephone service), homeowner association fees and assessments and space rent, if any.

Where "monthly housing costs" are in connection with the purchase of a space or a right of occupancy of space in a mobilehome park, "monthly housing costs" shall include any housing costs which exist with regard to a mobilehome located on such space.

"Mortgage lender" means a bank or trust company, mortgage banker, federal or state chartered savings and loan association, governmental agency, credit union or other financial institution certified in accordance with Section 7910.

"Nonprofit corporation" means a nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 5000) of Division 2 of Title 1 of the Corporations Code and includes a cooperative corporation.

"Permanent foundation" means a mobilehome foundation system as defined or approved by the Department pursuant to Section 18551 of the Code and Section 1333, Chapter 2, Title 25, California Administrative Code.

"Program" means the Homeownership Assistance Program.

"Property" includes any real or personal property, the purchase of which is eligible for assistance under the Program. "Property" includes a converted rental unit, mobilehome or mobilehome park space, and a share in a cooperative corporation including a dwelling unit which is the subject of such share.

"Purchase price" means the price paid by an eligible purchaser to a seller of property to be purchased with assistance under the Program and shall equal the amount on which the transfer tax is paid in connection with the purchase of the property.

"Purchaser" means an eligible household or a nonprofit corporation which is purchasing or has purchased property with assistance under the Program.

"Recipient" means a household or nonprofit corporation which has received financial assistance under the Program.

"Rental unit" means a dwelling unit in rental housing or a space, or a mobilehome in mobilehome park where the occupant rents the space, the mobilehome or both.

"Rural area" means any open country or any place, town, village, or city which by itself and taken together with any other places, towns, villages or cities that it is part of or associated with:

(1) has a population not exceeding 10,000 or

(2) has a population not exceeding 20,000 and is contained within a nonmetropolitan area.

"Rural Area" also includes any open country, place, town, village, or city located within a Standard Metropolitan Statistical Area if the population thereof does not exceed 20,000 and the area is not part of, or associated with, an urban area and is rural in character.

"Sales price" means the amount for which assisted property is sold by a recipient under the Program. The sales price shall equal the price in which the transfer tax is paid except if the buyer assumes existing loans or buys the assisted property subject to existing loans in which case the sales price should equal the principal amount owing on such existing loans plus the price on which the transfer tax is paid.

"Sales proceeds" means the amount of funds received by a recipient under the Program from the sale of assisted property by such recipient as reflected by the sales price minus closing costs, real estate commissions and any other costs incurred by the recipient in selling the assisted property.

"Share" means a proportional interest in a cooperative corporation entitling the holder to reside in a converted rental unit or mobilehome park owned or leased by the cooperative corporation.

"Site control" includes actual ownership of a site, the right to purchase a site under a contract to purchase or option agreement, or such other control of ownership or possession of site as the Department considers satisfactory.

"State contract" means a contract between the Department and governmental agency as provided in subdivision (b) of Section 7914.

NOTE: Authority cited: Sections 50406, 50776, and 50777, Health and Safety Code. Reference: Sections 50775, 50776, 50777 and 50778, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).

3. Amendment filed 6–11–81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6–11–81 emergency order filed 6–19–81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No 25).
5. Amendment filed 7–6–81 as an emergency; effective upon filing (Register 81, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–3–81.
6. Certificate of Compliance as to 7–6–81 order transmitted to OAL 10–23–81 and filed 11–18–81 (Register 81, No. 47).
7. Amendment filed 4–30–82; effective thirtieth day thereafter (Register 82, No. 18).

Article 2. Program Requirements

§ 7904. Eligible Use of Funds.

The Department shall provide financial assistance from the Fund, either directly or through a mortgage lender, to enable eligible recipients to purchase or develop property as provided in this section.

(a) Financial assistance may be used for the following purposes:

(1) to enable an eligible household, which has occupied for at least 120 days prior to the date of submission of an application under Section 7916 a rental unit being converted, to purchase the unit it has occupied or another rental unit in the same rental housing development being converted, provided that such other rental unit is not being purchased by its occupant(s), or to purchase a share in a cooperative corporation which entitles the holder to occupy a converted rental unit;

(2) to enable an eligible household to purchase a mobilehome affixed to a permanent foundation, not located or to be located in a mobilehome park;

(3) to enable, on an interim basis, a nonprofit corporation to develop or purchase a mobilehome park where, within a reasonable time thereafter, ownership of the mobilehome park will have been transferred to it occupants, either as individual owners or a shareholders in a cooperative corporation which owns the mobilehome park or;

(4) to enable an eligible household to purchase a share in a cooperative corporation which entitles the holder to reside in a mobilehome park.

(b) In no event shall financial assistance provided under the Program exceed forty– nine (49) percent of the purchase price of the property. The remaining fifty–one (51) percent of the purchase price shall consist of a loan secured by the recipient through a mortgage lender certified under the Program and any required downpayment. With regard to the purchase or development of a mobilehome park, financial assistance shall not exceed forty–nine (49) percent of the purchase price or development costs which can be attributed to the number or ratio of eligible households who will occupy the park.

(c) Where State financial assistance will be used in conjunction with a Federal housing assistance program and a conflict exist between State and Federal program requirements, the requirements of the State Homeownership Assistance Program regulations may be waived only to the extent necessary to permit Federal participation, provided that such a waiver does not conflict with any State legal requirements.

(d) The Department may require that a specified percentage of the total units in a proposed development be pre–sold without state financial assistance at prices at least equal to the prices of units to be purchased with state financial assistance.

(e) Not less than fifty (50) percent of the monies in the Fund shall be used to assist lower income households as defined in Title 25, California Administrative Code, Section 6928.

(f) Not less than twenty (20) percent of the dwelling units assisted under this Program shall be located in rural areas.

NOTE: Authority cited: Sections 50406, 50775, 50777, and 50778 Health and Safety Code. Reference: Sections 50775, 50776, 50777, and 50778, Health and Safety Code.

HISTORY

1. Amendment filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
2. Certificate of Compliance including amendment transmitted to OAL 3–13–81 and file 4–14–81 (Register 81, No.16).
3. Amendment filed 6–11–81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6–11–81 emergency order filed 6–19–81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).

§ 7906. Eligible Applicants.

Governmental agencies may apply to the Department for a funding commitment under the Program on behalf of eligible households and nonprofit or stock cooperative corporations. To be eligible for a funding commitment under the Program, a governmental agency must meet the following criteria:

(a) It must be certified by the Department as an eligible participant in accordance with Section 7910.

(b) The city and/or county having jurisdiction over the area in which assistance is proposed to be provided, must:

(1) have an adopted housing element which is in conformance with Section 65302 (c) of the Government Code; or

(2) been granted an extension to prepare a Housing Element by the Office of Planning and Research pursuant to Government Code Section 65302.6 prior to approval of the application; or

(3) the Department must make a finding that there exists in the region a severe housing shortage for low and moderate income households, and notwithstanding the locality's failure to comply with state housing element requirements, there exists such an overriding need for the proposed housing assistance that state funding is justified.

Where the housing development for which assistance is proposed is a subdivision under the State Subdivision Map Act, the requirements of this Act, including Government Code Section 66473.5, shall be met.

(c) Unless the governmental agency is an exempt governing body of an Indian reservation or rancheria, the governmental agency must agree to implement a program of assistance to eligible recipients in accordance with Section 7912 which serves to implement the local housing element and Housing Assistance Plan. With respect to assistance programs involving converted rental units, such programs must in addition be part of a comprehensive approach by such agency to the problem of rental unit conversion in the agency's jurisdiction.

(d) It must agree to execute a contract with the Department as provided in Section 7914.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) (1) and (d) filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).
3. Amendment filed 6–11–81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6–11–81 as an emergency order filed 6–19–81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsection (c) filed 4–30–82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7908. Need for Assistance.

A household shall not be eligible under the Program unless it has been determined that such household will be unable to acquire the property without financial assistance from the Fund.

(a) A household shall be determined to be unable to acquire property without financial assistance under the Program if:

(1) the monthly housing cost associated with the property to be purchased would exceed thirty–five (35) percent of the household's income; and

(2) the household's assets do not exceed the total of the following:

(A) the amount necessary to pay the estimated closing cost and downpayment for the property to be purchased;

(B) the amount necessary to pay six (6) months of the monthly housing costs associated with the unit to be purchased; and

(C) five thousand dollars (5,000).

(b) For the purposes of the Program, "assets" means the value of a household's savings and any equity in stocks, bonds, real property, or other forms of capital investment. "Assets" does not include items reasonably necessary for the personal use of the household, such as personal effects, furniture, appliances, automobiles, real or personal property used in a business or undertaking which is a primary sources of livelihood for such household, and a mobilehome to be located on property for which financial assistance will be provided.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775 and 50777, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 6-11-81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6-11-81 emergency order filed 6-19-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment filed 4-30-82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7910. Certification of Program Participants.

(a) Before the Department enters into any contract with, or makes any payment to a governmental agency or a mortgage lender, the Department shall certify upon receipt of a proposal and application for assistance that such agency or lender is capable of fulfilling its responsibilities with respect to the Program and such contract or payment.

(b) In determining the capability of a governmental agency under this section, the Department shall consider whether such agency is:

(1) administratively responsible, as evidenced by the experience of such agency, or the administrative responsibility of staff or consultants employed or to be employed by such agency, in implementing housing rehabilitation, rental assistance, homeownership assistance or other related housing assistance programs; and

(2) capable of proceeding promptly to carry out a program of assistance in accordance with this subchapter.

(c) In determining the capability of a mortgage lender under this section, the Department shall consider:

(1) whether such lender is able to, and has undertaken to, originate, process, close and service loans for the purchase or development (if appropriate) of property; and

(2) whether such lender is:

(A) an approved seller and servicer of conventional loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation,

(B) a mortgagee approved by the Federal Housing Administration or the United State Veterans Administration, or

(C) a lender approved by the California Housing Finance Agency.

(d) At the time a governmental agency applies to the Department for financial assistance under the Program for the benefit of a stock cooperative or nonprofit corporation, the Department shall certify that the corporation has the administrative and financial capability to develop, own or lease, and manage (when applicable) a mobilehome park in accordance with this subchapter. In making its certification the Department shall consider the following:

(1) the experience of the cooperative or nonprofit corporation, or staff or consultants employed or to be employed by such a cooperative or nonprofit corporation, in the design, construction or development, and management (when applicable) of publicly- assisted or non-assisted mobilehome park developments, or rental or cooperatively-owned housing developments; and

(2) whether the cooperative or nonprofit corporation possesses sufficient funds, liquid assets or the ability to borrow, to provide adequately for the predevelopment costs of the proposed mobilehome park and for unforeseen or contingent expenses.

NOTE: Authority cited: Sections 50406, and 50776, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 6-11-81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6-11-81 emergency order filed 6-19-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsection (d) filed 4-30-82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7912. Program of Assistance.

A program of assistance to eligible recipients shall be implemented by participating governmental agencies.

(a) The program of assistance to eligible households shall contain the following elements applicable to the type of assistance being provided:

(1) where assistance is provided pursuant to Section 7904 (a) (1), notification to tenants in the rental housing development being converted that financial assistance under this program is available, regardless of race, sex, marital status, color, religion, national origin or ancestry;

(2) where assistance is provided pursuant to Section 7904 (a) (2) and (4), notification to eligible households as provided under Section 7934 that financial assistance under this Program is available, regardless of race, sex, marital status, color religion, national origin or ancestry;

(3) provision of counseling and training to prospective purchasers regarding their rights and responsibilities as homeowners including budgeting for mortgage payments and related housing costs;

(4) notification to eligible households of the names and locations of mortgage lenders certified to make loans in conjunction with the state under the Programs;

(5) assistance to eligible households in making applications for loans.

(b) The program of assistance to stock cooperatives or nonprofit corporations purchasing or developing mobilehome parks shall contain the following elements:

(1) development and implementation of an affirmative marketing plan in accordance with Section 7934 and approved by the Department for occupancy of the mobilehome park by eligible households;

(2) ensure compliance with relevant state and federal laws including CEQA; and

(3) where the city and/or county having jurisdiction over the area in which the mobilehome park is to be developed or purchased has assumed responsibility for enforcement of the Mobilehome Parks Act in accordance with Section 18300 of the Code, assurances that the city and/or county will:

(A) review, approve and submit to the Department for review and approval, all preliminary plans submitted by stock cooperative or nonprofit corporation in its application for a permit to construct, ensuring compliance with the Mobilehome parks Act, Title 25, California Administrative Code, Sections 1000 *et seq.*, and all relevant local planning, health, utility and fire requirements; and

(B) issue all appropriate permits required by the Mobilehome Parks Act after receipt of Department approval as provided in the preceding subdivision.

(c) The program of assistance shall include such other activities deemed necessary by the Department to ensure that the objectives and requirements of the Program are fulfilled.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.

2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 6-11-81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of repeal of 6-11-81 emergency order filed 6-19-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsections (a)(2) and (a)(4) filed 7-6-81 as an emergency; effective upon filing (Register 81, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-3-81.
6. Certificate of Compliance as to 7-6-81 order transmitted to OAL 10-23-81 and filed 11-18-81 (Register 81, No. 47).
7. Amendment of subsection (a)(5) filed 4-30-82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7914. Contracts and Agreements.

(a) All financial assistance provided by the Department shall be governed by contracts binding all recipients of such financial assistance as provided in this section. The Department may require such additional contracts, agreements, or amendments thereto, as it deems necessary to meet the purposes of the Program or requirements of the Code.

(b) Whenever the Department makes a funding commitment to a governmental agency applying for assistance on behalf of eligible recipients, the commitment of funds shall be governed by a state contract between the Department and the governmental agency. The state contract shall contain such terms and conditions as the Department considers necessary for the purposes of the Program and to meet the requirements of the Code, including but not limited to:

(1) a provision specifying the maximum amount of funds committed and the duration of the commitment by the Department to a governmental agency for the purpose of providing financial assistance to eligible recipients;

(2) a provision specifying the proposed sources, terms and conditions of public or private financing to be used in combination with funds from the Program;

(3) a description of the specific location of the housing development(s) in which the properties to be assisted are located;

(4) a provision specifying the minimum number of households to be assisted, including the minimum number of such households which are of lower income;

(5) a provision specifying that the maximum amount of assistance to be provided to eligible households or nonprofit corporations shall not exceed the amount provided in Section 7904(b);

(6) a description of the program of assistance to be provided by the governmental agency to eligible recipients which will receive financial assistance under the Program;

(7) a provision specifying the terms and conditions relating to breach of the state contract or this subchapter by the governmental agency; and

(8) a provision for periodic progress reports to the Department relating to implementation of the Program.

(c) Where financial assistance is provided to eligible households pursuant to Section 7904 (a) (1),(2) or (4), such assistance shall be provided either directly or indirectly by the Department in the form of a loan to such households. State loans shall be made in conjunction with loans made by a certified mortgage lender. During the term of its loan, the mortgage lender shall be repaid in monthly or periodic installments while repayment of the State's loan shall be deferred until the time of sale or transfer of the property or until repayment is required due to loss of eligibility. The purchaser shall execute a promissory note and deed of trust securing the State's loan. The form and content of the note and deed of trust utilized may vary provided that the State's loan is adequately secured and the following provisions are included:

(1) a description of the property being purchased;

(2) a provision requiring the purchaser to repay to the Department upon sale or transfer of the assisted property an amount of the sales proceeds of the assisted property proportionate to the percentage of the original purchase price contributed by the Department, incorporating any adjustments for improvements or partial repayments in accordance with Sections 7926 and 7928;

(3) a provision specifying that the assisted property shall not be sold for an amount substantially below its fair market value for the purpose of reducing the state's share in the sale proceeds;

(4) a provision for voluntary repayment to the Department of the total amount which would be owed to the Department if the property were sold at fair market value pursuant to Section 7930 at the time of such repayment;

(5) a provision allowing the purchaser to increase its equity in the assisted property by paying the Department less than the full amount owed to the state, as provided in Section 7928;

(6) provisions requiring the purchaser to:

(A) occupy the assisted property as its principal place of residence and not use such property as rental property during the term of the loan;

(B) pay all property and other taxes, fees and impounds levied with respect to the property;

(C) keep the property insured against fire;

(D) maintain the property in good condition; and

(E) comply with all terms and conditions of, and make all payments required by the promissory note and deed of trust;

(7) a provision requiring prior Department approval of any improvement to be made to the assisted property by the purchaser when a readjustment pursuant to Section 7926 will be sought;

(8) a provision prohibiting the purchaser from further encumbering the property with liens or deeds of trust without the express prior written approval of the Department;

(9) a provision requiring repayment or partial repayment to the Department if such repayment is determined to be necessary in accordance with Section 7936;

(10) a provision specifying that if the purchaser breaches any covenant or condition of the promissory note or deed of trust, a demand may be made for repayment of the full amount to the State would be entitled if the property were sold at fair market value and that, in the event of non-repayment, non-judicial foreclosure may be pursued;

(11) a provision specifying that if non-judicial foreclosure is pursued as a result of an alleged breach of the promissory note or deed of trust by the purchaser, the purchaser shall be notified of his/her right to dispute the alleged breach in a hearing before the Department as provided in Section 7938.

(d) Where financial assistance under the Program is provided to stock cooperatives or nonprofit corporations pursuant to Section 7904 (a) (3), the recipient shall execute a promissory note and deed of trust securing the State's loan. The form and content of the note and deed of trust utilized may vary provided that the State's loan is adequately secure, and the following provisions are contained in the note or deed of trust or in a contract prescribed by the State:

(1) the provisions required by subdivisions (c)(1) through (c)(11) inclusive of this section, except subdivisions (c)(2),(c)(6)(A), and (c)(9);

(2) a provision specifying that state funds shall not be released until a permanent financing commitment has been secured by the recipient corporation. In no event shall the period of interim financing exceed two (2) years where a park is to be developed or one (1) year where a park is to be purchased;

(3) a provision requiring that if during the period of interim financing the nonprofit or cooperative corporation intends to charge space rent to eligible households to be assisted under the Program, that such rent when added to other monthly housing costs not exceed thirty-five (35) percent of the eligible household's gross income or that such rent not exceed the space rent existing prior to the purchase of the mobilehome park with assistance under the Program, whichever is less;

(4) a provision requiring the recipient corporation to repay to the Department at the time permanent financing is secured, or upon sale or transfer of the property, whichever occurs first, an amount proportionate to the percentage of the development costs or purchase price provided by the

Department, incorporating any adjustments for improvements, in accordance with Section 7926;

(5) where a mobilehome park is to be developed, provisions which require, pursuant to state or federal law the use of affirmative action in hiring by all contractors and subcontractors involved in the construction of a mobilehome park, and that the park will be developed in accordance with the Mobilehome Parks Act, Title 25, California Administrative Code Section 1000 *et seq.*;

(6) a provision requiring that ownership of the park be transfered to a cooperative corporation with shareholders who will occupy the park or to individual owners who will occupy the park, at the termination of interim financing;

(7) a provision specifying the number of eligible households, including lower income households, which will occupy the mobilehome park for the purpose of determining the amount of assistance to be provided to the nonprofit or cooperative corporation;

(8) a provision requiring compliance by the cooperative or nonprofit corporation with an approved affirmative marketing plan as provided in Section 7934;

(9) a provision requiring the recipient corporation to pay reasonable actual moving expenses of households displaced as a result of the development of a mobilehome park using financial assistance under the Program. Only those displaced persons who occupied their dwelling at the time an application was submitted to the Department in accordance with Section 7916 shall be eligible for moving expense payments;

(e) Notwithstanding subdivisions (c) (2) and (d) (4) of this section, the promissory note and deed of trust may require that the Department not receive in repayment less than the amount of assistance originally provided.

(f) All promissory notes and deeds of trust shall be recorded in the office of the county recorder in which the assisted property is located.

(g) The Department shall enter into agreement(s) with the entity or entities that will originate and service State loans under the Program. The agreement(s) shall include but not limited to the following:

(1) a provision requiring Department approval prior to the close of escrow of each purchaser's loan application and other loan documents required by the Department;

(2) a provision requiring prior Department approval of the eligibility of improvements for reimbursement pursuant to Section 7926;

(3) a provision requiring prior Department approval before a recipient of funds may further encumber assisted property with liens or deeds of trust, other than those securing a loan under the Program;

(4) a provision requiring determination of the value of claimed improvements by a servicer of the state loans as provided in Section 7926;

(5) a provision requiring a loan servicer to make all necessary readjustments for improvements and partial repayments in accordance with Sections 7926 and 7928 and to maintain a record of any such readjustment and forward copies to the Department and the governmental agency;

(6) a provision requiring a loan servicer to periodically recertify the eligibility of the purchaser and to secure repayment on behalf of the Department as required by Section 7936;

(7) a provision requiring a loan servicer to notify the Department in writing in the event that it becomes aware of a default by a recipient in the performance of its obligations under this Section; and

(8) a provision requiring a loan servicer to secure repayment on behalf of the Department when assisted property is sold and to ensure that the assisted property is not sold for an amount substantially below its fair market value for the purpose of reducing the state's share in the sale proceeds.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776, 50777, Health and Safety Code.

HISTORY

1. Amendment filed 11-13080 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance including amendment transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 6-11-81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6-11-81 emergency order filed 6-19-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsections (a) and (c)-(g) filed 7-6-81 as an emergency; effective upon filing (Register 81, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-3-81.
6. Certificate of Compliance as to 7-6-81 order transmitted to OAL 10-23-81 and filed 11-18-81 (Register 81, No. 47).
7. Amendment of subsection (c) (6) (E) filed 4-30-83; effective thirtieth day thereafter (Register 82, No. 18).

Article 3. Application Procedures

§ 7916. Contents of Applications.

(a) Applications shall be made by governmental agencies in accordance with a form to be issued by the Department which shall require at least the following information:

(1) evidence of the eligibility of the applicant under Section 7906;

(2) a description of the proposed uses of financial assistance under the Program, indicating the eligibility of structures under Section 7904;

(3) details of the program of assistance to be provided;

(4) the anticipated sales prices of the properties to be assisted under the Program;

(5) the amount of financial assistance needed;

(6) the number of households that may be displaced as a result of the project; and

(7) the status of the local jurisdiction's housing element in terms of conformity Section 65302 (c) of the Government Code.

(b) Applications for financial assistance under Section 7904 (a) (1), (2) and (4) shall include information required in subdivision (a) above and the following additional information:

(1) details of services or financing to be provided by the governmental agency and any mortgage lender;

(2) a description of housing developments in which eligible households reside or are to reside; and

(3) a statement indicating how the assistance program forms a part of the governmental agency's comprehensive approach to rental unit conversion or a part of its comprehensive housing strategy.

(c) Applications for financial assistance to purchase shares in a cooperative corporation shall include the information required by subdivisions (a) and (b) above and the following additional information:

(1) the articles of incorporation and by-laws of the cooperative corporation in which shares are proposed to be purchased;

(2) evidence of the market value of such share; and

(3) a description of rights and liabilities attaching to such shares, including but not limited to, any additional amounts required to be paid by the holder for the right to reside in the development or mobilehome park.

(d) Applications for financial assistance to purchase a mobilehome park under Section 7940 (a) (3) shall include information required in subdivision (a) above and the following additional information:

(1) identification and description of the mobilehome park proposed to be purchased;

(2) financial aspects of the mobilehome park, including sales price of the park, the presence of any occupied structure other than a mobilehome on the site, sources and terms of financing, projected operating expenses and utility costs;

(3) marketability of spaces in the mobilehome park, including evidence of the existing tenant's intentions to purchase their spaces, existing and projected occupancy of the mobilehome park and details of the plan for affirmative marketing if appropriate; and

(4) planning aspects of the mobilehome park, including conformity with the local General Plan, including the housing element, Housing As-

sistance Plan, local growth policy, appropriate zoning requirements, and access to public utilities.

(e) Application for financial assistance to develop a mobilehome park under Section 7904 (a) (3) shall consist of a pre–application and final application by the local governmental agency and shall be submitted to the Department in accordance with Department instructions.

(1) the pre–application shall include the information contained in subdivision (a) above and the following additional information:

(A) evidence of the administrative and financial capability of the non–profit or stock cooperative corporation pursuant to Section 7910 (d);

(B) identification and description of the mobilehome park proposed to be developed;

(C) a site map indicating the location of the proposed assisted and non–assisted spaces;

(D) preliminary drawings of the assisted and non–assisted spaces;

(E) information as to the financial aspects of the mobilehome park, including evidence of site control, the presence of any occupied structure on the site, a general breakdown of development costs, anticipated sources and terms of financing, projected operating expenses and projected utility costs;

(F) information as to the proposed construction of the mobilehome park development, including the general contractor's name and experience, method of construction and any special design features;

(G) information as to the marketability of spaces in the mobilehome park, including area housing needs and income levels, regional and local vacancy rates, projected occupancy of the mobilehome park and details of the plan for affirmative marketing;

(H) information as to the planning aspects of the mobilehome park, including anticipated or actual conformity with the local growth policy, and appropriate zoning requirements; and

(I) information as to access to utilities, services and employment.

(2) The final application for financial assistance shall include the following information:

(A) a construction timetable and incorporation of affirmative action requirements;

(B) a set of architectural drawings; and

(C) information as to the actual sources and terms of financing.

(f) Applicants for activities which are subject to CEQA, will act as Lead Agency and will prepare necessary environmental documents for the project. Applicants will provide the Department with assurances that the provisions of CEQA, where applicable, have been or will be complied with.

(g) Guidelines and instructions under this section shall require the applicant to provide such other information as the Department may consider necessary to meet the purposes of the Program of the requirements of the Code.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776, and 50777, Health and Safety Code.

HISTORY

1. Amendment filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).
3. Amendment of NOTE filed 4–30–82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7918. Staff Review of Applications.

(a) Program staff shall review all applications by governmental agencies to determine the eligibility of such governmental agencies and the economic feasibility, desirability and appropriateness of the proposed uses for assistance.

(b) In conducting its review, program staff shall consider:

(1) the capability of the governmental agency, mortgage lender and the cooperative or nonprofit corporation, if any, to implement the requirements of the Program;

(2) local efforts to adopt and implement the housing element of the General Plan of the local jurisdiction for which the assistance program is proposed in accordance with Section 65302(c) of the government Code, if applicable, and the conformity of the application with such housing element;

(3) the governmental agency's program of assistance and comprehensive housing strategy;

(4) whether the proposed project will result in the displacement of low and moderate income households as defined in Section 6912 of Title 25, California Administrative Code;

(5) whether the proposal for assistance will result in a timely and efficient use of available funds;

(6) the percentage of funds proposed to be used to assist lower income households in accordance with Section 7904(c);

(7) the local priorities for allocating financial assistance among eligible households;

(8) whether, and how much, additional public and private resources will be used in conjunction with assistance under the Program;

(9) the geographic distribution of assisted units in accordance with Section 7904(d);

(10) compliance with other requirements of this subchapter; and

(11) other criteria deemed necessary by the Department to ensure that the objectives of the Program are fulfilled.

(c) On the basis of its review of the applications, program staff will prepare recommendations for each application and submit them to the Committee for its consideration and decision. When an application is submitted to the Committee for review, the applicant shall be notified of the recommendation and date and time of the Committee hearing.

(d) Where a pre–application has been submitted to the Department for financial assistance to develop a mobilehome park, program staff will review such pre–applications to determine if they are complete, accurate and generally in compliance with this subchapter and to determine their eligibility and the appropriateness of providing assistance from the Fund in accordance with subdivision (b) of this section.

(1) On the basis of its review of the pre–application, program staff will prepare recommendations for each pre–application and submit them to the Committee for its consideration and decision as to preliminary commitment.

(2) When a pre–application is submitted to the Committee for review, the applicant shall be notified of the recommendation and the date and time of the Committee hearing considering the pre–application.

(3) After preliminary commitment, the staff shall review the final application to determine compliance with all preliminary commitment conditions. Material noncompliance with any condition, lack of progress in fulfilling conditions, and other material facts shall be reported to the Committee.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) (2) filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–31–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).
3. Amendment filed 6–11–81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6–11–81 emergency order filed 6–9–81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsection (b) (2), (c) and (d) (1) (2) filed 4–30–82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7920. Committee Review of Applications and Other Matters.

(a) The Committee shall be responsible for the review and disposition of all applications for financial assistance by governmental agencies. It shall adopt operating policies and procedures for the program, and shall perform other functions and duties as may be required by the Director of the Department or by law.

(b) the Committee shall consist of members and shall operate as set forth in subchapter 1 (commencing with Section 6900) of Chapter 6.5 of Part 1 of Title 25, California Administrative Code.

(c) In taking any action, the Committee shall consider the recommendations of program staff, the application and any written or oral testimony of an applicant or other interested person.

(d) Approval or denial of any action by a loan committee shall constitute a recommendation to the Director who shall consider the committee's recommendation in making a decision on the action.

(e) The Committee shall base its final recommendation as to each application or any other action pursuant to the subchapter on the criteria contained in Section 7918(b) and such other considerations as are consistent with the terms and objectives of the Program.

(f) The Committee shall within fifteen (15) days of the date on which it considers any request for action, inform the applicant in writing of its recommendation stating:

(1) that it has approved, postponed consideration of, or rejected the request or application:

(2) the reasons for refusal or postponement of consideration; and

(3) that the applicant or recipient has a right of appeal as specified in Section 7922.

(g) The Committee, in any recommended approval of a pre-application, shall specify any terms, conditions or special requirements which are not present in the pre-application, as well as the form, term and timing of assistance. The recommended approval shall include a commitment of funds for a sum of no more than one hundred ten percent (110%) of the amount of assistance approved for the specific project.

(h) The Committee shall specify in any recommended approval of an application:

(1) the amount and purpose of financial assistance to be provided to the applicant and minimum number of households to benefit from such assistance;

(2) the form, terms and timing of such financial assistance; and

(3) any conditions attached to the approval of its application.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment of subsections (d)–(h) filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will repealed on 3–13–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).
3. Amendment of NOTE filed 4–30–82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7922. Appeals.

(a) If an applicant or recipient is dissatisfied with:

(1) the refusal or postponement of consideration of the application or any other matter pursuant to this subchapter,

(2) a reduction of the amount applied for, or

(3) any conditions attached to the recommended approval of the application or any other matter pursuant to this subchapter, it may within thirty (30) days of the date of the Committee's decision appeal in writing to the Director of the Department, stating and fully supporting the grounds of its appeal.

(b) If an applicant or recipient appeals to the Director pursuant to subsection (a) of this section, the Director shall:

(1) within thirty (30) days of the date of documented receipt of the appeal hold an open informal meeting at which the applicant, recipient, program staff and any interested person may make submissions as to the action the Department should take with respect to the application or matter being considered; and

(2) within forty-five (45) days of the date of documented receipt of the appeal notify the applicant or recipient in writing of the Director's determination of the appeal.

(c) The director's determination of the appeal shall be final.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment of subsections (a) (3) and (b) (1) filed 11–13–80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).
3. Amendment of NOTE filed 4–30–82; effective thirtieth day thereafter (Register 82, No. 18).

Article 4. Program Operation

§ 7924. Amount of Assistance.

(a) the amount of financial assistance to be provided to an eligible household shall be determined in the following manner:

(1) The eligible household shall contribute at least thirty-five (35) percent of its gross monthly income to monthly housing cost in connection with the purchase of assisted property.

(2) An eligible household may be allowed to assume a greater responsibility for monthly housing costs if:

(A) the proposed housing costs are approximately the same as the present housing costs of the household,

(B) a satisfactory credit record has been maintained by the household, and

(C) the household has demonstrated an ability sustain its present housing expense without serious difficulty; or

(D) it has been otherwise determined that the eligible household can assume such greater responsibility.

(3) The eligible household shall contribute at least three (3) percent of the purchase price of the assisted property as a downpayment.

(4) At the time the household applies to a mortgage lender originating State loans under the Program, such lender shall determine, using its normal underwriting standards and the provisions of this section, the minimum amount of state financial assistance necessary to qualify the household for a mortgage loan.

(5) In no event shall the amount of financial assistance provided to an eligible household under the Program exceed forty-nine (49) percent of the purchase price or appraised value of the assisted property, whichever is less.

(b) Where financial assistance is being provided to a nonprofit corporation for purchase or development of a mobilehome park, the amount of assistance to be provided shall be based on the costs directly attributable to the number or ratio of eligible households who will occupy the park. The amount of financial assistance shall be determined in the following manner:

(1) The nonprofit corporation shall be eligible to receive financial assistance in an amount equal to either forty-nine (49) percent of the costs attributable to the development of the spaces to be occupied by eligible households or forty-nine (49) percent of the purchase price attributable to the purchase of spaces to be occupied by eligible households.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50755, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 11–13–80 as an emergency; effective upon filing (Register 80, No.46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–13–81.
2. Certificate of Compliance transmitted to OAL 3–13–81 and filed 4–14–81 (Register 81, No. 16).
3. Amendment filed 6–11–81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6–11–81 emergency order filed 6–19–81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsection (a)(4) filed 7–6–81 as an emergency; effective upon filing (Register 81, No. 28) A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–3–81.
6. Certificate of Compliance as to 7–6–81 order transmitted to OAL 10–23–81 and filed 11–18–81 (Register 81, No. 47).
7. Amendment of subsection (a)(2)(D) filed 4–30–82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7926. Improvements.

(a) The recipient must obtain approval by the Department as to the eligibility of contemplated improvements prior to initiating such improvements.

(b) The value of improvements to assisted property shall be determined at the time such improvements are made, in the following manner:

(1) Where improvements are made which increase the value of the property, the value of such improvements shall be the amount, if any, by which the value of the property after the improvements are made exceeds the value of the property before the improvements are made,

(A) less the amount, if any, by which the value of the property has been increased by other work not constituting improvements performed between the two valuations, and

(B) plus the cost to the recipient of the appraisals to determine the value of the property before and after the improvements were made in accordance with this section.

The improvements adjustment to be made to the purchase price under Section 7914(c) (4) and (d) (5) shall be calculated in accordance with the following formula:

$$E = \frac{(V_I \times E_I) + I}{V_I + I}$$

E is the proportion of the value to which the household is entitled after improvements

V_I is the value of the property immediately before the improvements are made

I is the value of the improvements (in accordance with subdivisions (1) of this section)

E_I is the proportion of the value of the property to which the household is entitled immediately before the improvements were made

On each occasion that the property is improved, a new value for E shall be determined by applying the formula. The value of E thus determined will be used as E_I the next occasion on which improvements are made. The amount to which the household shall be entitled on sale or termination of state financial assistance shall be the sale price or fair market value multiplied by the value of E at the time of sale or termination.

(2) Where the improvements made do not increase the value of the dwelling but bring the dwelling into conformance with local and state building or housing standards, the adjustment for improvements under Section 7914(c) (4) and (d) (5) shall be calculated in accordance with Section 7928(c), except that the value for "R" shall be the actual costs of improvements as supported through receipts, plus the cost to the recipient of an appraisal.

(c) Improvements shall not be the basis for a readjustment of the proportional amounts to which the Department and recipient are entitled upon sale of an assisted unit unless the costs to the recipient of making such improvements is at least five hundred dollars ($500.00).

(d) Whenever there is an adjustment to the proportional amounts to which the Department and recipient are entitled upon sale, the servicer of State loans shall ensure that a record of such an adjustment is kept and shall forward a copy to the Department and the governmental agency.

NOTE: Authority cited: Sections 50406, 50776 and 50777, Health and Safety Code. Reference: Sections 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 6-11-81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6-11-81 emergency order filed 6-19-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsections (b) and (d) filed 7-6-81 as an emergency; effective upon filing (Register 81, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-3-81.
6. Certificate of Compliance as to 7-6-81 order transmitted to OAL 10-23-81 and filed 11-18-81 (Register 81, No. 47).
7. Amendment of subsections (a) and (c) filed 4-30-82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7928. Partial Repayment.

(a) A purchaser of property assisted under the Program may repay a portion of the financial assistance provided by the state and increase its equity in the property if:

(1) the State requires or approves such partial repayment;

(2) no more than one partial repayment is made within any period of twelve (12) months; and

(3) such partial repayment is not less than one thousand dollars ($1,000).

(b) Where a purchaser wishes to increase its equity in the assisted property, the entitlements of the purchaser and the Department respectively shall be calculated in accordance with the following formula:

$$E = \frac{(V \times E_R) + R}{V}$$

Eis the proportion of the value of the property to which the purchaser is entitled after partial repayment

V is the value of the property at the time of the partial repayment

E_R is the proportion of the value of the property to which the purchaser is entitled immediately before the partial repayment is made

R is the amount of the partial repayment plus the cost to the recipient of an appraisal

On each occasion that a partial repayment is made, a new value for E shall be determined by applying the formula. The value of E thus determined will be used as E_R the next occasion on which a part repayment is made or as the proportion of the purchaser's equity in the property at sale or transfer. The amount to which a household shall be entitled on sale or termination of state financial assistance shall be the sale price or fair market value multiplied by the value of E at the time of sale or termination.

(c) Whenever there is an adjustment to the proportional amounts to which the Department and purchaser are entitled upon sale, a servicer of State loans shall keep a record of such an adjustment and shall forward a copy to the Department and governmental agency.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 6-11-81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6-11-81 emergency order filed 6-19-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsections (a)(1) and (c) filed 7-6-81 as an emergency; effective upon filing (Register 81, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-3-81.
6. Certificate of Compliance as to 7-6-81 order transmitted to OAL 10-23-81 and filed 11-18-81 (Register 81, No. 47).

§ 7930. Determination of Fair Market Value.

(a) For the purpose of the Program, "fair market value" means the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no compulsion to do so; and a buyer, being ready, willing and able to buy but under no compulsion to do so; each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available, as set forth in Section 1263.320 of the California Code of Civil Procedure.

(b) The fair market value of assisted property shall be determined by an appraisal or other method expressly approved in advance by the Department. The appraisal shall be conducted by an appraiser accredited with one of the major testing and certifying appraisal societies, including the society of Real Estate Appraisers, the American Society of Appraisers and the American Institute of Real Estate Appraisers.

(c) Any appraisal shall be documented on a form specified by the Department.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 6-11-81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6-11-81 emergency order filed 6-19-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsection (b) filed 7-6-81 as an emergency; effective upon filing (Register 81, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-3-81.
6. Certificate of Compliance as to 7-6-81 order transmitted to OAL 10-23-81 and filed 11-18-81 (Register 81, No. 47).

§ 7932. Maximum Purchase Prices.

(a) The Committee may by resolution adopt maximum purchase prices for converted rental units, and mobilehomes on permanent foundations not located within mobilehome parks.

(b) In adopting such maximum purchase prices, the Committee may take into account:

(1) the need to make the optimum use of Program funds by providing financial assistance to as many households as possible;

(2) the extent to which the beneficiaries of financial assistance under the Program are able to obtain financing and make loan or other necessary payments with respect to housing assisted under the Program;

(3) comparative land and housing costs in the region and locality for which the financial assistance is proposed; and

(4) such other matters as the Committee considers appropriate.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Section 50775, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment of NOTE filed 4-30-82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7934. Affirmative Marketing Plan.

(a) Governmental agencies, stock cooperative corporations, and nonprofit corporations shall be responsible for development and implementation of an affirmative marketing plan to attract eligible purchasers of all minority and non-minority groups to participate in the Program. One purpose of this plan is to assure that any group (s) or persons normally not likely to apply for the housing without special outreach efforts (due to sales prices, existing neighborhood racial or ethnic patterns, and/or other factors) are made aware of the availability of financial assistance, encouraged to apply, and have the opportunity to purchase using financial assistance under this Program.

(b) The plan shall set out the minimum number of households to receive financial assistance under this Program with incomes below eighty (80) percent and between eighty (80) and one hundred (100) percent of the median for the county; the methods and media for advertising the availability of assistance under the Program; names of community groups/organizations located in the housing market area which the governmental agency will establish and maintain contact with as part of its outreach efforts; and any other efforts the applicant is proposing to attract eligible households to participate in the Program.

(c) The requirements of this Section shall not apply to a duly constituted government body of an Indian reservation or rancheria.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 6-11-81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6-11-81 emergency order filed 6-19-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. New subsection (c) filed 7-6-81 as an emergency; effective upon filing (Register 81, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-3-81.
6. Certificate of Compliance as to 7-6-81 order transmitted to OAL 10-23-81 and filed 11-18-81 (Register 81, No. 47).

§ 7936. Recertification of Eligibility.

(a) Except where assistance is provided to a nonprofit corporation or stock cooperative corporation, a servicer of State loans shall be responsible for recertifying household eligibility and reevaluating the need for State assistance. Total or partial repayment to the state shall be required if the ratio of current housing costs to the purchaser's current gross monthly income has decreased by more than ten (10) percentage points below that ration which existed at the time of purchase of the assisted unit. Total repayment shall be required if the purchaser has acquired residential real property in addition to the property being assisted under the Program.

(b) The amount and method of repayment shall be determined jointly by the servicer of State loans and purchaser. Absent agreement by both parties, repayment shall not result in the proportion of the purchaser's income applied towards total monthly housing costs, exceeding that proportion in existence at the time of purchase. Repayment for the purpose of this section shall be conducted in accordance with Section 7928.

(c) The recertification and reevaluation shall be conducted every five (5) years until the State is either totally repaid or the assisted property is sold or its title transferred, whichever comes first. During the initial five (5) year period an additional review shall be conducted at the end of the second year.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Amendment filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance including amendment transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 6-11-81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6-11-81 emergency order filed 6-19-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsections (a) and (b) filed 7-6-81 as an emergency; effective upon filing (Register 81, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-3-81.
6. Certificate of Compliance as to 7-6-81 order transmitted to OAL 10-23-81 and filed 11-18-81 (Register 81, No. 47).
7. Amendment of subsection (c) filed 4-30-82; effective thirtieth day thereafter (Register 82, No. 18).

§ 7938. Foreclosure.

(a) Whenever a notice of default and intent to sell an assisted dwelling unit is issued pursuant to Civil Code Section 2924 alleging that a recipient has defaulted in performing its obligations under the agreements required by Section 7914, the recipient shall be notified in writing of its right to contest the grounds for declaring such a default in a hearing before the Department.

(b) The notice of right to a hearing shall be issued concurrently with the issuance of a notice of default. The notice of right to a hearing shall include a form prescribed by the Department which the recipient shall use to notify the Department of its intention to contest the basis for declaring a default. The notice of hearing shall provide as follows:

(1) it shall require the recipient to specify in the prescribed form the grounds upon which the recipient relies in disputing the alleged default;

(2) it shall specify a date by which the prescribed form must be postmarked or returned to the Department and must allow the recipient at least fourteen (14) days to respond; and

(3) it shall specify that if the prescribed form is not received or postmarked by the specified date, the recipient shall have waived its right to a hearing before the Department.

(c) Upon receipt of a request for a hearing, the Department shall immediately notify the recipient of the date set for the hearing. The notice of hearing shall be mailed at least fourteen (14) days prior to the date set for the hearing and shall inform the recipient of the following:

(1) the date, time and place for the hearing;

(2) the right of the recipient to present at the hearing any evidence or arguments in support of its position;

(3) the right of the recipient to examine or copy, at the recipient's expense, all documents, records, and regulations relating to the disputed default;

(4) the right to be represented by counsel or other person chosen by the recipient as its personal representative; and

(5) the right of the recipient to submit its evidence and arguments in writing prior to the hearing date in lieu of a personal appearance at the hearing.

(d) The hearing shall be conducted informally by the General Counsel of the Department or the General Counsel's designee. The following procedures shall govern hearings before the Department:

(1) The recipient shall be given the opportunity to confront or examine and controvert all witnesses and documents upon which the claimed default is based. The opportunity to confront a witness is not required where both parties have expressly agreed in writing that the appearance of such a witness is unnecessary.

(2) Oral or documentary evidence relevant to the facts and issues raised by the recipient may be received without regard to admissibility under judicial rules of evidence, but with appropriate regard to credibility, authenticity, relevance and materiality.

At the conclusion of the hearing the General Counsel shall review all the evidence and arguments presented and, within seven (7) days thereafter, shall prepare a tentative ruling on the issue of default which shall be submitted to the Director for a final determination.

(e) In the event a recipient fails to appear at a hearing, the Department may decide that the recipient has waived its right to a hearing and the General Counsel may proceed to make his/her findings and recommendation to the Director.

(f) After receipt of a tentative ruling, the Director shall review the record of the proceedings and the findings of the General Counsel and shall decide whether the recipient has defaulted in its obligations and whether the notice of default shall be rescinded.

(1) If the Director finds there is no default by the recipient, the notice of default shall immediately be rescinded and the contested action to foreclose terminated.

(2) If the Director finds that the recipient has defaulted in performance of its obligations under Section 7914:

(A) the notice of default shall remain effective and the action to foreclose shall continue; or

(B) the Director, in his/her discretion, may permit the recipient to cure its default and have the notice of default rescinded.

(g) The provisions of this section shall not apply to any mortgage lender making loans to recipients in conjunction with the State, but not utilizing the same note and deed of trust as the State is using to secure its loan. Where the State and a mortgage lender are making a joint mortgage loan utilizing the same note and deed of trust this section shall be applicable, except that the Director may not exercise his/her discretion under subdivision (f)(2)(b) when the recipient has defaulted in its obligation to make payments on the mortgage lender's portion of the assisted loan or defaulted in its obligation to make required tax and insurance payments in connection with the assisted unit and the mortgage lender will not agree to permit the recipient to cure.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: Sections 50775, 50776 and 50777, Health and Safety Code.

HISTORY

1. Repealer and new section filed 11-13-80 as an emergency; effective upon filing (Register 80, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3-13-81.
2. Certificate of Compliance transmitted to OAL 3-13-81 and filed 4-14-81 (Register 81, No. 16).
3. Amendment filed 6-11-81 as an emergency; effective upon filing (Register 81, No. 25).
4. Order of Repeal of 6-11-81 emergency order filed 6-19-81 by OAL pursuant to Government Code Section 11349.6 (Register 81, No. 25).
5. Amendment of subsections (f) and (g) filed 7-6-81 as an emergency; effective upon filing (Register 81, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-3-81.
6. Certificate of Compliance as to 7-6-81 order transmitted to OAL 10-23-81 and filed 11-18-81 (Register 81, No. 47).

Subchapter 12. Emergency Housing and Assistance Program

§ 7950. Definitions.

"Allowable costs" mean expenditures for eligible activities. See Section 7961.

"Capital Development Grant" means a grant of up to $150,000 from the EHAF made to defray costs of capital development activities such as the acquisition, construction, conversion, expansion, reconstruction or rehabilitation of real property or the purchase of equipment for emergency shelter or transitional housing where the combined cost of these activities at a single site exceeds $20,000. See section 7966.

"Client" is the person or household provided client housing or rental assistance funded by a program grant.

"Client housing" is the general term used in these regulations to describe emergency shelter, transitional housing, or vouchers provided to the client to meet emergency or transitional housing needs pursuant to this subchapter.

"Construction" means building a new structure, or expanding an existing structure, which will provide emergency shelter and/or transitional housing.

"Construction or service contractor" refers to the parties with whom a grantee contracts for construction services or equipment.

"Conversion" means the alteration of nonresidential space within an existing structure to create space for emergency shelter and/or transitional housing.

"Day" means calendar day.

"Department" means the California Department of Housing and Community Development.

"Director" means the Director of the Department of Housing and Community Development.

"DLB" is the acronym for "designated local board" which is a group, including social service providers and a representative of local government, that has met Department requirements for distribution of grants allocated by the Department pursuant to chapter 11.5 of the Health and Safety Code. See section 7952.

"EHAF" is the acronym for the "Emergency Housing and Assistance Fund established by section 50800.5 of the Health and Safety Code.

"EHAP" is the acronym for the "Emergency Housing and Assistance Program" established by Health and Safety Code section 50800.

"Eligible activities" mean those activities upon which program funds may be expended. See section 7961.

"Eligible organization" means an agency of local government or a nonprofit corporation that provides, or contracts with community organizations to provide, emergency shelter or transitional housing, or both. See section 7959.

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person and that is not withheld due to a client's inability to pay.

"Grant" or "program grant" means a grant of monies from the Emergency Housing and Assistance Fund.

"Grantee" is the recipient of a grant, who enters into a Standard Agreement with the Department to provide specified eligible activities.

"Interested party or parties" means, for Department or DLB purposes, anyone who has informed the Department or the DLB, respectively, that they wish to receive information concerning the Department's or the DLB's EHAP activities and shall include any person who has spoken at a meeting of the Department or the DLB regarding EHAP or communicated in writing with the Department or the DLB concerning its EHAP activities during the prior year.

"LESS" is the acronym for "local emergency shelter strategy," a planning and evaluation document which is developed for a region by a DLB and which provides the basis for the selection of grantees and for monitoring subsequent grantee activities. See section 7955.

"Local organization" is the local group eligible to apply to the Department for designation as a DLB. See sections 7952 and 7953.

"Milestone" means a measurable objective toward the achievement of the project or program goals.

"NOFA" is the acronym for a "notice of funding availability" described in section 7958.

"Nonurban county" means any county with a population of less than 200,000, as published in the most recent edition of Population Estimates of California Cities and Counties, E–1, prepared by the Department of Finance, Population Research Unit.

"Operating Facility Grant" means a grant of up to $50,000 in program funds made to defray costs of eligible activities including facility operations and administration, residential rental assistance, leasing or renting rooms for provision of temporary shelter, and up to $20,000 per site in capital development–type activities, as described in Health and Safety Code section 50803 and in section 7963.

"Program" means the Emergency Housing and Assistance Program (EHAP).

"Rank" means the order of eligible applications for funding based only on the rating established pursuant to the applicable grant selection criteria.

"Rating" means the process by which eligible applications are evaluated and given an overall numerical or relative value based on the numerical or relative value(s) assigned to each of the identified selection criteria described in the NOFA to which the applicant is responding.

"Reconstruction" means replacing an existing structure with a structure of similar size and type, which will be used to provide emergency shelter and/or transitional housing.

"Region" means a county or a consortium of counties voluntarily banding together by action of a designated local board.

"Rehabilitation" means making repairs or improvements to a building necessary to correct substandard conditions as defined by section 17920.3 of the Health and Safety Code. As used in these regulations, rehabilitation may include reconstruction or conversion.

"RTE" is the acronym for "responsible technical entity", an entity determined by the Department to have the expertise in housing construction and development necessary to make determinations about the feasibility of a proposed capital development project for which program funding is sought. See section 7954.

"Site" means a given parcel or contiguous parcel(s) of land, generally distinguished by a tax assessor's parcel number(s), developed or to be developed with emergency shelter and/or transitional housing.

"Transitional housing" means housing with supportive services that is limited to occupancy of up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self–sufficiency development services, with the ultimate goals of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability–to–pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low–income persons.

"Urban county" means any county that is not a "nonurban county."

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50800 through 50804.5, Health and Safety Code.

HISTORY

1. Amendment of subchapter heading and repealer and new section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 85, No. 37.
2. Amendment of subchapter heading and repealer and new section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subchapter heading and repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subchapter heading and repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subchapter heading and repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7951. Program Organization and Administration.

(a) Applications for program funds shall be solicited through NOFAs. The Department shall issue a Statewide NOFA and DLBs shall issue regional NOFAs as described in section 7958.

(b) The Department shall designate local boards, pursuant to the process described in section 7953, which shall solicit and review applications and select grantees from among eligible applications in their region.

(c) A DLB's activities shall be based upon the provisions of its LESS.

(d) The Department shall review applications and select grantees for those regions without DLBs.

(e) The activities of grantees shall be monitored pursuant to section 7975 to ensure compliance with the provisions of this subchapter and the standard agreement.

(f) Should a new federal homeless program be enacted by the federal government and be administered by the Department, for efficiency of operations the Department may administer EHAP to complement the new federal program.

NOTE: Authority cited: Sections 50402, 50800(c), 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50802(c), 50802.5 and 50804, Health and Safety Code.

HISTORY

1. New section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section heading, section and NOTE transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7952. Designated Local Board.

(a) A region shall have no more than one DLB at any time.

(b) The membership of the DLB shall be representative of the local community, as described in section 7953(d).

(c) Upon designation by the Department pursuant to section 7953 each DLB shall prepare or amend its LESS pursuant to sections 7955 and 7956 and approved by the Department pursuant to section 7956.

(d) A DLB shall be responsible for the selection of operating grant(s) within the region and shall monitor the subsequent performance of each grantee.

(e) A DLB shall be responsible for the selection of capital development grants only if the DLB has obtained from the Department a designation as an "RTE", pursuant to the requirements of section 7954.

(f) A DLB shall not initiate the local grant selection process until the Department has approved the DLB's LESS for the funding period.

(g) In the event of the termination of designation or the failure of the DLB to obtain approval of the LESS as required, the Department shall assure the continuation of EHAP funding to the region by issuing a separate regional NOFA and evaluating the subsequent applications pursuant to subsections 7967(b) and (c).

(h) A DLB shall comply fully with the requirements of the California Public Records Act (Government Code sections 6250 through 6267) and the Bagley–Keene Open Meeting Act (Government Code sections 11120 through 11132.)

(i) A DLB shall notify the Department of any change in its membership. Within thirty days of the announced resignation of a DLB member, the DLB shall select a replacement member who ensures that the DLB's membership continues to represent the local community.

(j) Pursuant to its evaluation of a DLB per section 7976, the Department may place conditions on a designation in order to correct any deficiencies in the performance of a DLB.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50801(b), 50801.5(a) and 50804, Health and Safety Code; and Section 11121.2, Government Code.

HISTORY

1. Repealer and new section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section and NOTE transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7953. Local Board Designation Process.

(a) In order to apply for designation as a DLB, a local organization shall submit to the Department a written application containing the information identified in subsection (b).

(b) The written application for designation shall include the following information:

(1) The membership of the local organization;

(2) The address of the local organization;

(3) The proposed regional boundaries;

(4) An explanation of each potential member's experience and expertise relevant to program activities;

(5) The demonstrations and certifications required by section 7954, if applicable;

(6) An explanation and supporting documentation of how the requirements of subsections (c) and (d) will be or have been met, including proof of publication of notice pursuant to subsection (c)(1); and

(7) The certifications required by subsection (e).

(c) The local organization shall provide notice of the application for designation as a DLB to the public within the region and shall invite the public to submit comments to the Department about the application pursuant to all of the following:

(1) Notice shall be provided through publication in at least one newspaper of general circulation in each county in the region.

(2) Notice shall be mailed to all interested parties.

(3) Notice shall be provided prior to submittal of the application.

(4) The notice shall provide the name, address, and telephone number of a person the public can contact for further information.

(5) The notice shall provide the public with thirty days within which to submit comments to the Department about the application.

(6) The thirty–day comment period shall begin the day after the notice is mailed or the day after the notice is published, whichever is later.

(d) The membership of the local organization and of the subsequent DLB shall be representative of the local community, and shall:

(1) Provide a range of community representation and expertise; and

(2) Represent such interests as shelter providers, local funding agencies, public officials, private industry, mental health groups, law enforcement, the courts, planning agencies, social services, and homeless advocates.

(e) Within its application to the Department for designation, the proposed DLB shall certify in writing that it:

(1) Accepts responsibility for the distribution and re–distribution of funds allocated to the region;

(2) Will monitor grantee performance;

(3) Will comply with all requirements of this subchapter;

(4) Will provide any data or information required by the Department for the evaluation of the performance of the DLB; and

(5) Will comply with and enforce the conflict of interest restrictions set forth in subsection (f).

(f) No individual, including DLB staff and any DLB subcommittee member, participating in determining eligibility, feasibility, readiness, rating or ranking of grant applications shall be a board member, an officer, employee, or agent of any eligible organization applying for funds nor have any financial interest in any eligible organization applying for funds.

(g) Within fifteen days of the receipt of an application for designation, the Department shall notify the applicant in writing if the application is incomplete and identify the information and/or certifications that are missing.

(h) Within thirty days of the receipt of a complete application, the Department shall provide the applicant with written notice as to whether the local organization has received the Department's designation as a DLB. If an applicant has not received designation, the written notice shall provide each specific reason for not designating the local organization as a DLB.

(i) The Department shall withdraw the designation of a DLB if the activities of the DLB do not comply fully with the requirements of this subchapter.

(1) The Department shall provide the DLB with written notification of the withdrawal of designation and of the effective date of the withdrawal. The written notification shall identify each compliance issue upon which the withdrawal of designation is based.

(2) If a former DLB chooses to protest the Department's decision to withdraw designation and/or the findings upon which the decision was based, the DLB shall submit a written petition for a hearing to the Department, within fifteen days of the date of the Department's written notification.

(3) The petition shall request a hearing and shall provide a clear, concise statement of the reasons the hearing is being requested, the information and/or activities under discussion, and the remedy sought by the former DLB.

(4) Within fifteen days of the date the petition is received by the Department, the Department shall schedule a hearing and shall provide the petitioner with written notice of the date, time and place of the hearing. The date of the hearing shall be within forty-five days of the date of the Department's written notification of the withdrawal of designation and no sooner than ten days after the date of the hearing notice.

(5) The hearing shall provide the petitioner with the opportunity to be heard and to show cause why the withdrawal of designation should be modified or repealed.

(6) Within fifteen days of the hearing, the Department shall provide the petitioner with a written decision that repeals, modifies, or sustains the Department's decision to withdraw designation. The written decision shall respond specifically to each issue commented upon by the petitioner.

(j) A former DLB shall surrender custody of all program records, including applications, correspondence, and related documentation, to the Department within seven days of the effective date of the Department's withdrawal of designation, or at the conclusion of the appeal process when it maintains the Department's decision to withdraw the designation.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50801(b) and 50801.5(a), Health and Safety Code.

HISTORY

1. New section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7-8-94 with repealer and new subsection (f) as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section heading, section and NOTE transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7954. Responsible Technical Entity.

(a) The following types of entities are eligible to demonstrate to the Department for designation as an RTE compliance with the requirements of subsections (d) through (g):

(1) A DLB;

(2) A Local government entity;

(3) A nonprofit corporation; and

(4) A private, for-profit entity.

(b) In order to be designated as an RTE and be responsible for the selection of capital development grants, a DLB shall:

(1) Demonstrate to the Department that the DLB membership meets the requirements of an RTE as set forth in subsections (d) through (g); or

(2) Provide the certification required by subsection (h) that the DLB has delegated feasibility determinations involving capital development grants to an entity which has demonstrated to the Department that it meets the requirements of an RTE as set forth in subsections (a) and (d) through (g).

(c) The demonstration shall consist of written evidence of compliance with the requirements of subsections (a) and (d) through (g) and written certification by the proposed RTE of acceptance of these requirements.

(d) An RTE shall have direct experience with the development of emergency shelter and/or transitional housing projects in the region, whether new construction, conversion, or rehabilitation. Staff persons committed to the task shall cumulatively possess experience and expertise in construction, real estate, finance, and the development of housing projects.

(e) An RTE shall commit to assist the DLB with the selection of capital development projects for funding by determining the feasibility and readiness of the projects proposed in all eligible capital development grant applications.

(f) For the purpose of reviewing, ranking, or selecting applications for funding, each member of the RTE or DLB subcommittee shall comply with subsection 7953(f).

(g) An RTE shall commit to provide the DLB with advice about project acquisition, construction and/or rehabilitation, during capital development grant monitoring and close-out activities.

(h) Where separate entities, the RTE and the DLB shall each certify in writing to a statement which delegates to the RTE the responsibilities stated in subsections (d) through (g).

(i) The demonstrations and certifications required by this section shall be provided with the local organization's application for designation as a DLB. The timeframes for the Department's review shall be the same as those provided in subsections 7953(g) and (h).

(j) If a DLB enters into an agreement pursuant to subsection (h) with an entity other than the original RTE approved by the Department, the entity shall apply for Department approval pursuant to the requirements of this section. The new entity shall not participate in review and selection activities of the DLB until the Department provides written notice of approval of the entity as an RTE.

(k) In regions with no RTE, or where an RTE fails to complete its duties pursuant to this subchapter, the Department shall receive, review and select all applications for capital development grants.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Section 50802.5(c), Health and Safety Code.

HISTORY

1. Repealer and new section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 90, No. 32.
2. Repealer and new section refiled 7-8-94 with repealer and new subsection (g) as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7955. Local Emergency Shelter Strategy.

Each LESS shall include:

(a) An assessment of the needs within the region for client housing.

(b) A summary of the existing resources available within the region to meet the needs identified pursuant to subsection (a). To the extent practical, the summary shall identify each existing program by the type and amount of client housing provided, and the geographical area served.

(c) A statement of the regional goals for addressing the identified client housing needs not met by existing resources.

(d) A description of each local priority and restriction that will be placed on the distribution of program funds including:

(1) The anticipated apportionment of the local county allocation between operating facility grants and capital development grants;

(2) Each category of client housing for which the local distribution of funds may have a priority or a restriction (for example, emergency shelter rather than transitional housing);

(3) Any other restrictions that may be placed on grant applications, such as a minimum or maximum grant level or a limit on the number of grants that will be funded.

(e) A description of the grant application process, including:

(1) The anticipated schedule for the solicitation, receipt, review and selection of applications;

(2) The procedures for notifying potential applicants of the availability of funds and the eligibility requirements;

(3) The procedures that will apply to the submission of applications;

(4) A list of the anticipated documentation, in addition to that required by section 7960, that will be required for each application;

(5) A description of all technical assistance available to applicants;

(6) The procedures for determining applicant and application eligibility pursuant to the requirements of sections 7959, 7960, and 7961;

(7) The procedures for reviewing, rating, ranking and selecting eligible applications for grant awards;

(8) The process for awarding funds to eligible applicants in accordance with the requirements of section 7967;

(9) Where applicable, the process for DLB selection of capital development grants, including the process of RTE participation where the RTE is a different entity than the DLB, and including the provisions of sections 7966 and 7967;

(10) The procedures, including those required by section 7967, for providing applicants with notice of whether their respective applications were selected for funding;

(11) The anticipated process for the redistribution of any unawarded funds.

(f) The procedures that will be employed to ensure that the activities of the DLB are conducted in an open, fair and competitive manner including procedures for:

(1) Providing adequate public notice of the activities of the DLB, by, for example, publishing notices in newspapers of general circulation, posting notices in designated places, and mailing notices to interested parties who have requested such information; and

(2) Providing notice to all interested parties no less than ten days in advance of each scheduled meeting or hearing, in accordance with Government Code sections 11120 through 11132.

(g) A description of the local process for applicants to appeal grant selection or other DLB activities, in a fair manner and in accordance with the requirements of section 7968 and including:

(1) The timeframes for each step of the process, which cumulatively ensure the timely consideration of the petition and which do not exceed the timeframes set in subsection 7968(a);

(2) Who will make the initial determination on an appeal; and

(3) How an appellant can make a subsequent appeal to the Department for review of local determinations involving DLB procedures.

(h) The procedures that will be followed by the DLB, and the RTE, if applicable, to monitor and evaluate the performance of grantees including:

(1) Monitoring grantee progress in relationship to established milestones;

(2) Procedures for monitoring the execution and completion of grant contractors and scheduled draw-down of program funds;

(3) Procedures for the periodic review of grantee expenditures to ensure compliance with the requirements for the use of program funds;

(4) Periodic review of each grantee's record-keeping effort;

(5) Any local grantee reporting requirements.

(i) The following attachments:

(1) The mailing list of service providers that has been and will be used by the DLB to provide notice as required throughout this subchapter;

(2) A copy of the DLB's latest application for designation including the certifications required by subsection 7953(e);

(3) Copies of application forms and any other documents that the DLB will require for use or will use to determine eligibility, to evaluate applications and/or to select applications for funding;

(4) A summary of the region's awards for the prior funding round(s), including who was funded, and for what amounts and activities.

(5) A copy of the current written notice of designation issued to the DLB by the Department, pursuant to section 7953;

(6) A copy of the most recent DLB evaluation performed by the Department pursuant to section 7976;

(7) Agreements and conditions regarding the RTE, where applicable;

(8) A summary of all public meetings held pursuant to section 7956(b), including copies of the notices published and mailed; and

(9) A copy of all written comments submitted regarding the LESS and a summary of all oral comments received during the public meetings, and a summary of the DLB's responses to the public comments received.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50802.5, 50803.5 and 50804, Health and Safety Code.

HISTORY

1. New section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7956. Local Emergency Shelter Strategy Preparation, Review and Approval Process.

(a) Each DLB shall submit two copies of its proposed LESS or LESS amendments to the Department for approval no later than the first day of September each year unless otherwise notified in writing by the Department.

(b) Prior to submitting the LESS to the Department, the DLB shall conduct at least one noticed public meeting within each county within the region. During each meeting, the DLB members shall explain the contents of the proposed LESS and shall provide an opportunity for and shall receive public comments about the contents of the LESS.

(c) The Department shall review each LESS to ensure that it includes all the information required pursuant to this section and section 7955, and that it demonstrates that the DLB process will be open, fair, and competitive.

(d) Within thirty days of the receipt of a request to approve a LESS, the Department shall notify the DLB in writing if the request is incomplete, pursuant to the requirements of this section and section 7955, and identify the specific information that is missing or needs clarification.

(e) Within twenty days of the date of the Department's notice, the DLB shall provide the requested information.

(f) Within 30 days after receipt of a complete LESS per section 7955, the Department shall provide the DLB with a written determination of the result of the Department's review of the LESS.

(1) The Department's determination shall be one of the following:

(A) Approved,

(B) Approved with conditions, or

(C) Disapproved.

(2) For a determination other than an approval pursuant to subsection (f)(1)(A), the Department's written notice shall explain each of the reasons for the determination.

(g) If a LESS is not approved, or is approved with conditions, the DLB may revise the LESS and resubmit it with a request for the Department's approval no later than fifteen days after the date of the Department's notice of non-approval.

(h) An amendment to an approved LESS may be prepared subject to the following requirements and procedures:

(1) The DLB's request for the Department's approval of a LESS amendment shall include a written statement providing the reasons why the LESS must be amended, and justification for the terms of the proposed amendment.

(2) Where policy or procedural changes are proposed, the DLB shall propose the amendment pursuant to the meeting requirements listed in subsection (b) and shall include in its request for approval the information listed in section 7955(i)(8) and (9).

(3) Within thirty days of the receipt of a complete amendment submittal, the Department shall provide the DLB with a written determination of whether the amendment is:

(A) Approved,

(B) Approved with conditions, or

(C) Disapproved.

(4) With the exception of a determination that approves an amendment as provided in subsection (h)(3)(A), the Department's written determination shall include a detailed explanation of the reasons for the determination.

(i) In any case where the LESS or any provision thereof conflicts with the program statute or regulations, the statute or regulations, respectively, prevail.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Section 50804, Health and Safety Code.

HISTORY

1. Repealer and new section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 85, No. 37.
2. Repealer and new section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section heading and section transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7957. Allocation and Distribution of Funds.

(a) The allocation to urban counties shall not exceed eighty percent of the funds available each fiscal year. Urban county allocations shall be based solely upon the following two factors:

(1) The ratio of: the number of persons in the urban county living below the poverty line to the total number of persons living below the poverty line in all urban counties of the State according to the most recent federal census, updated, if possible, with an estimate by the California Department of Finance; and

(2) The ratio of: the number of persons unemployed in the urban county to the total number of persons unemployed in all urban counties of the State based on the most recent one-year period for which data is available.

(b) Each allocation to an urban county shall be determined based upon the sum of the urban county's ratios as calculated per subsection (a).

(1) All urban counties shall be ranked in the order of the highest ratio sum to the lowest ratio sum, and urban counties with equal ratio sums shall be grouped.

(2) A minimum allocation of $10,000 shall be made available to each urban county within the group with the lowest ratio sum.

(3) Each ratio sum, other than the lowest sum, shall be converted to a percentage, with the sum of the percentages equaling 100%.

(4) Following the deduction of the minimum allocations from the funds available, the balance of the funds shall be divided into groups in proportion to the percentages determined by the calculation required by subsection (b)(3).

(5) The amount of funds available to each group shall be allocated in equal proportions to each of the urban counties within the group.

(c) The allocation to nonurban counties shall not be less than twenty percent of the funds available each fiscal year. Nonurban regional allocations shall be based solely upon the following two factors:

(1) The ratio of: the number of persons in the nonurban county living below the poverty line to the total number of persons living below the poverty line in all nonurban counties of the State according to the most recent federal census, updated, if possible, with an estimate by the California Department of Finance; and

(2) The ratio of: the number of persons unemployed in the nonurban county to the total number of persons unemployed in all nonurban counties of the State, based on the most recent one-year period for which data is available.

(d) Each allocation to a nonurban county shall be determined based upon the sum of the nonurban county's ratios for persons living below the poverty line and for persons unemployed as calculated per subsection (c).

(1) All nonurban counties shall be ranked in the order of the highest ratio sum to the lowest ratio sum, and nonurban counties with equal ratio sums shall be grouped.

(2) A minimum allocation of $10,000 shall be made available to each nonurban county within the group with the lowest ratio sum.

(3) Each ratio sum, other than the lowest sum, shall be converted to a percentage, with the sum of the percentages equaling 100%.

(4) Following the deduction of the minimum allocations from the funds available, the balance of the funds shall be divided into groups in proportion to the percentages determined by the calculation required by subsection (d)(3).

(5) The amount of funds available to each group shall be allocated in equal proportions to each of the nonurban counties within the group.

(e) If two or more counties form a consortium under a DLB, the total allocation for that subsequent region shall be the sum of the individual county allocations available as described in the Statewide NOFA. Each county shall receive its respective share of the allocation in client housing and/or rental assistance.

(f) The Department may designate, the eligible use(s) for which a specified allocation of funds is restricted when:

(1) The original source of the funds allocated to the Department restricts the use of those funds (e.g., bond funds for capital development); or

(2) The Department identifies a particular Statewide need among eligible activities and facilities for funding; or

(3) The total allocation to the Department for program use is less than the amount needed to fund the minimum allocation of $10,000 per county.

(g) The Department shall provide a written explanation of the necessity for designating the eligible use of a specific allocation. This explanation shall appear in the NOFA issued by the Department for the specific allocation, pursuant to section 7958.

(h) The allocation term is two years, beginning the date the Department issues the Statewide NOFA for the specific allocation.

(i) At the end of the two-year allocation term, any allocation balance not encumbered shall be returned to the Emergency Housing and Assistance Fund for allocation as part of the next Statewide NOFA.

(j) For any county without a DLB, when there are no applicants, the allocation balance will revert to the EHAF and be allocated as part of the next Statewide NOFA.

(k) The minimum grant is $10,000 except as follows:

(1) For counties with an allocation greater than $20,000, one grant less than $10,000 may be awarded if necessary to fully utilize the county's allocation.

(2) For counties with an allocation of up to $20,000, up to two grants of less than $10,000 may be awarded.

(l) The maximum grant amounts are as stated in sections 7963 and 7966, or, for regions with a DLB, such lesser amounts as a DLB has established in its approved LESS.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50802 and 50802.5(a), Health and Safety Code.

HISTORY

1. New section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section heading and section transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7958. Notices of Funding Availability.

(a) A Statewide or regional NOFA is the document issued by the Department or the DLB, respectively, which notifies all interested persons,

(1) That the program has been allocated funds;

(2) The types and amounts of funds available for specified eligible activities;

(3) That the funds will be distributed to eligible applicants through a competitive process;

(4) The specified minimum and maximum grant amount(s) consistent with this subchapter, and, for regional NOFAs, with the LESS:

(5) The specified timeframes which apply to the application and grant selection processes, including the deadline for filing of applications;

(6) That copies of EHAP's governing statutes and regulations can be obtained from a contact person whose name, address and telephone number are provided; and

(b) In addition to the items listed in subsection (a), a Statewide NOFA shall include:

(1) A list of the allocations available to each county;

(2) Identification of the counties for which the Department shall receive and review eligible applications, select applications for grant awards, and fully monitor the performance of grantees;

(3) The name, address and telephone number of a contact person within the Department, who can provide further information and the application package for counties the Department will serve;

(4) Identification of the regions and corresponding counties for which DLBs shall receive and review eligible applications, select applications for grant awards, and monitor the subsequent performance of grantees; and

(5) The name, address and telephone number of a contact person within each DLB, who can provide further information and an application package.

(6) The grant selection criteria described in subsection 7967(b).

(c) In addition to the items listed in subsection (a), a regional NOFA shall include:

(1) The amount of the regional allocation;

(2) Any restrictions imposed upon the use of the funds by the terms of the Statewide NOFA;

(3) Any priorities or restrictions imposed upon the use of the funds pursuant to the approved LESS;

(4) The name, address and phone number of a contact person, who can provide a copy of the LESS and the regional application;

(5) The grant selection criteria described in section 7967(c).

(d) A regional NOFA shall be provided by a DLB to all providers of client housing and/or client services, within its region, including the providers on the list attached to the LESS, pursuant to subsection 7955(i)(1).

NOTE: Authority cited: Sections 50402, 50801.5(a) and 50806.5, Health and Safety Code. Reference: Section 50802.5, Health and Safety Code.

HISTORY

1. Repealer and new section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 90, No. 32.
2. Repealer and new section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section heading and section transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7959. Eligibility Requirements for Applicants and Grantees.

(a) An agency of local government or a nonprofit corporation, which provides or contracts with community organizations to provide emergency shelter or transitional housing, or both, is eligible to apply for program funds, if the application demonstrates compliance with the eligibility requirements of this section.

(b) A grantee shall maintain continuous compliance with the requirements of this subchapter.

(c) As of the publication date of the Statewide NOFA, an applicant or a grantee shall have provided client housing continuously each day throughout the prior twelve months or, for cold-weather shelter providers, each day throughout the region's prior cold-weather season.

(d) An applicant or a grantee shall not require, as a condition of client housing, participation by clients in any religious or philosophical ritual, service, meeting, or rite.

(e) An applicant or a grantee shall not provide client housing in a manner which denies benefits on the basis of race, religion, age, sex, marital status, ethnicity, place of origin, physical or mental disability, or any other arbitrary basis. This section shall not be construed to preclude the provision of client housing designed to accommodate women or men only.

(f) An applicant or a grantee shall not provide client housing or rental assistance in a structure which contains any of the conditions of a substandard building listed in section 17920.3 of the Health and Safety Code and

shall comply with all applicable State and local construction, maintenance and occupancy standards.

(g) An applicant or a grantee which provides emergency shelter and related client services shall provide access to the shelter and services on a first-come, first-served basis, for whatever time periods are established by the grantee.

(h) An applicant or a grantee providing emergency shelter to clients shall not:

(1) Condition the provision of emergency shelter on the receipt of public or private payment vouchers or cash payment from the client;

(2) Reserve space in the emergency shelter for any person(s) except as allowed by statute and described in subsection (i); or

(3) Deny shelter or services to any client due to the inability to pay.

(i) Notwithstanding the provisions of subsections (g) and (h), a grantee may accept payment vouchers provided through any other public or private program for clients in emergency shelters so long as no shelter beds are reserved beyond sundown for that purpose.

(j) An applicant or a grantee providing emergency shelter shall establish rules for client occupancy which shall:

(1) Include a statement of the maximum consecutive number of days during which a client is eligible to occupy the shelter;

(2) Be conspicuously posted at the emergency shelter.

(k) An applicant or a grantee providing transitional housing may charge rent only if a minimum of ten percent of all monies collected for each client are reserved to assist that client in moving to permanent housing. In addition:

(1) The reserve of monies for each client must be accounted for separately; and,

(2) If monies reserved for a client remain unused due to the absence of the client for a year or more, the monies shall be used to assist another client in moving to permanent housing.

(l) An applicant or grantee providing transitional housing shall demonstrate that the housing meets all of the following tests:

(1) Occupancy is limited to a maximum of two years; and,

(2) Every client is offered at least three types of self-sufficiency development services such as job counseling or instruction, personal budgeting or home economics instruction, tenant skills instruction, landlord/tenant law, victim's rights counseling, or apartment search skills instruction; and,

(3) Any client must participate in at least one self-sufficiency development service offered by the client housing provider as a condition for receiving client housing; and,

(4) Every client accumulates funds to be applied to first and last months' rent for permanent housing pursuant to subsection 7959(k); and,

(5) Every client is provided referrals or placements to permanent housing.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50801(e) and (h) and 50801.5, Health and Safety Code.

HISTORY

1. New section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section heading and section transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7960. Eligible Application.

(a) In order to be eligible for selection, an application shall:

(1) Be submitted by the deadline stated in the applicable NOFA;

(2) Be submitted to the address noted in the applicable NOFA;

(3) Be complete, pursuant to subsection (b); and

(4) Contain a certification by the applicant that all information within the application is a true and accurate representation of the eligible organization.

(b) A complete application shall consist of the following:

(1) An authorizing resolution by the applicant's governing board of directors;

(2) A fully completed application accompanied by all applicable attachments and any additional information requested in the respective NOFA; and

(3) Any other information the DLB or the Department requires to determine the eligibility of the applicant and the proposed activities, to evaluate or rate and rank the application, or to confirm that the applicant is capable of successfully completing all activities.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50801.5(a) and 50802.5(b), Health and Safety Code.

HISTORY

1. Repealer and new section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 85, No. 37.
2. Repealer and new section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section and NOTE transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7961. Eligible Use of Funds.

The use of grants of program funds shall be restricted to the following eligible activities and allowable costs.

(a) Eligible activities for which grant funds may be used to defray the costs of providing direct client housing include:

(1) Operating facilities to provide emergency shelter or transitional housing;

(2) Acquiring, constructing, converting, expanding, or rehabilitating emergency shelter or transitional housing sites pursuant to section 7966;

(3) Leasing facilities for emergency shelter or transitional housing;

(4) Administrative costs up to five percent of the total grant amount;

(5) Supervising and counseling clients;

(6) Residential rental assistance;

(7) Housing vouchers;

(8) Purchase of equipment; and

(9) Subcontracting with other eligible organizations to provide vouchers for temporary shelter and/or to provide residential rental assistance.

(b) Allowable costs within operating facility grants include, but are not limited to, costs of:

(1) Supervisory and line staff who provide services directly to clients;

(2) Counseling clients and supervising the counseling services;

(3) Utilities, telephone, office supplies, document duplication, printing and mailing;

(4) Routine maintenance and repair (such as interior painting and cleaning; repairs to heating, ventilating, air-conditioning, plumbing, and electrical systems; repairs of tenant damages; and other items not constituting a capital expenditure);

(5) Debt reduction, limited to no more than the one year's principle and interest on fully-amortized installment loans, excluding any balloon payments;

(6) Rent or lease payments for a shelter or transitional housing facility;

(7) Insurance and taxes;

(8) Administration (administrative staff and overhead costs up to five percent of the grant amount);

(9) Costs of paying rents in arrears and costs of paying initial rents for residential rental assistance in compliance with section 7964;

(10) Issuing vouchers for the purpose of leasing or renting individual units, hotel rooms, or motel rooms for use as emergency shelter, pursuant to subsection (a)(7), section 7965 and subject to the limitations of Health and Safety Code section 50803(b) (i.e., no more than 15% of an urban county's allocation).

(11) Up to $20,000 per site for costs of capital development-type activities and equipment such as described in subsection (c).

(c) Allowable costs within capital development grants include, but are not limited to costs of:

(1) Site acquisition, such as purchasing land and improvements, purchasing and moving an existing structure to the site, purchasing and moving a modular or manufactured structure to the site, necessary architectural and engineering services, and escrow, title and other standard closing costs;

(2) Site construction, rehabilitation or conversion, such as materials, labor, local government fees, and architectural and engineering services;

(3) Equipment required in the provision of client housing.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50801.5 and 50803, Health and Safety Code.

HISTORY

1. New section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7962. Ineligible Use of Funds.

The grant of program funds shall not be used for costs associated with activities in violation of any law nor for the following:

(a) The purchase of radios, televisions, and other appliances or equipment for recreational purposes;

(b) Occupancy fees for clients in emergency shelters;

(c) Off-site costs, special requirements, assessments, or anything more than is directly necessary for the development of emergency shelter or transitional housing;

(d) On-site improvements beyond those directly necessary for the development of emergency shelter or transitional housing (such as walls, fencing, parking lots, and landscaping);

(e) To provide temporary housing for minor children separated from their families due to a court order or an administrative order;

(f) To provide activities which do not directly provide client housing such as drop-in or day centers, food and food services, general relief, medical care, and transportation or child care (except as required by clients to participate in the self-sufficiency development services, or seek employment or permanent housing).

(g) Staff, other than the allowable administrative costs, not directly related to the provision of client housing such as security guards, food handlers, and landscape personnel.

(h) To provide activities determined by the Department or a DLB to be an ineligible, inefficient or ineffective use of grant funds as stated in the applicable NOFA.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Section 50803, Health and Safety Code.

HISTORY

1. Repealer and new section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 85, No. 37.
2. Repealer and new section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7963. Operating Facility Grants.

(a) An operating facility grant includes any single eligible activity or combination of eligible grant activities described in section 7961(a) including combined capital development-type activities of up to $20,000 per site.

(b) Allowable costs for an operating facility grant are those identified in subsection 7961(b), and limited to expenditures approved for eligible activities completed within the term of the Standard Agreement.

(c) The maximum operating facility grant shall be $50,000 per site.

(d) The term of an operating facility grant is 14 months from the effective date of the contract, and no extensions will be given.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Section 50803, Health and Safety Code.

HISTORY

1. New section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section and NOTE transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7964. Residential Rental Assistance.

The following requirements apply to the use of program funds under an operating grant to provide residential rental assistance to clients.

(a) The payment of rent in arrears shall not exceed one month's rent plus a reasonable late charge. Program funds shall be used only if:

(1) The client is unable to pay the rent in arrears and is threatened with eviction; and

(2) No other resources or assistance are available to pay the rent in arrears; and

(3) The client has not received more than one EHAP payment of rent arrears in the immediate past two years.

(b) The payment of initial rent shall consist of no more than the first month's rent or the last month's rent, or both if required as a condition of the occupancy of permanent housing. Program funds shall be used only if:

(1) No other resources or assistance are available to pay the initial rent; and

(2) The client has not received more than one EHAP payment of initial rent in the immediate past two years.

(c) Grant funds to be used for residential rental assistance shall be accounted for separately.

(d) Interest earned on the grant funds set aside for rental assistance shall be continuously credited to the rental assistance account.

(e) Prior to providing residential rental assistance, the grantee shall verify that:

(1) The client is eligible to participate in the program and has income sufficient to pay the monthly rent; and

(2) An appropriately sized and priced rental unit is available and suitable for occupancy by the client.

(f) The client shall not have direct use of grant funds. Grant funds shall be distributed directly from the grantee to the landlord.

(g) A grantee providing residential rental assistance shall:

(1) Make determinations regarding the eligibility of clients based upon a written application from the client;

(2) Provide information to clients on the tenant–landlord relationship, on the appropriate treatment of rental property, on appropriate behavior within the neighborhood, and on the importance of timely rental payments; and

(3) Provide staff who shall be reasonably available to landlords and tenants to answer questions or complaints about the program.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Section 50803, Health and Safety Code.

HISTORY

1. Repealer and new section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7965. Leasing or Renting Rooms with Vouchers.

The following requirements apply to the use of program funds to provide vouchers to lease or rent temporary housing for clients:

(a) Eligible temporary housing includes apartments, motel rooms, hotel rooms, rental rooms in a single–room occupancy structure, single–family homes, and manufactured homes or mobilhomes.

(b) Vouchers for temporary housing may also be use to pay rental fees for spaces at a special occupancy park which is defined by section 18216.1 of the Health and Safety Code as a recreational vehicle park, temporary recreational vehicle park, incidental camping area, or tent camp.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 18216.1 and 50803, Health and Safety Code.

HISTORY

1. New section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section and NOTE transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7966. Capital Development Grants.

(a) A capital development grant includes any single eligible activity or combination of eligible activities described in section 7961(a)(2) and (8), for which these combined costs at a single site exceed $20,000.

(b) Allowable costs for a capital development grant are those identified in subsection 7961(c), and limited to expenditures for approved eligible activities completed within the term of the standard agreement.

(c) The maximum capital development grant shall be $150,00 per site.

(d) The term of a capital development grant is 24 months from the effective date of the contract, with the possibility of a one–year extension pursuant to section 7970(c)(2).

(e) Applications for capital development grants must be made separately from applications for operating facilities grants.

(f) For regions where the DLB is authorized to select capital development grant applications, such applications shall be submitted to the DLB for selection pursuant to this subchapter and the approved LESS.

(g) For regions where there is no DLB, or the DLB is not authorized to select capital development grants, capital development grant applications shall be submitted to the Department for determination of eligibility, rating and ranking. These applications shall provide the information necessary for the Department's evaluation pursuant to subsections (i) and 7967(b).

(h) For regions where the DLB is not authorized to select capital development grants, the DLB may elect to preclude applications for capital development grants, provided this determination and the treatment of any capital development grant allocation is identified in the LESS.

(i) A capital development project shall be deemed feasible, where an evaluation by the RTE, as applicable, demonstrates and certifies to all of the following:

(1) The legal status, finances and projected cash–flow, technical feasibility, and the accuracy of the project's schedule demonstrate the probability of a successful completion of the project;

(2) The project's design and materials and the proposed labor needs and costs demonstrate that the project is devoid of non–essential or luxury design or materials;

(3) The current ownership and potential ownership of the real property demonstrate that control of the real property is sufficient to enable the project to be completed and to be operated for at least five years beyond completion, without jeopardizing the Department's security;

(4) The proposed schedule corresponds with the scope of the project and demonstrates that the project shall be completed within the term of the grant.

(5) The management team proposed for the project has the experience and ability to efficiently and successfully complete the project as proposed.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50802.5, 50803 and 50804.5, Health and Safety Code.

HISTORY

1. Repealer and new section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7967. Grant Selection Process.

(a) A grant selection process shall involve eligible applications received by a DLB or the Department in response to the applicable NOFA.

(b) Each of the following selection criteria shall be specified in the Statewide NOFA:

(1) The applicant's capability of achieving the activities and results proposed in the application. An applicant's capability will be evaluated based on such items as its history of providing client housing; organizational structure and staffing; experience of establishing, administering, and successfully completing homeless programs; experience of public and private fundraising and resource development; established financial management systems; financial stability and solvency; and demonstrated ability and readiness for accomplishing its proposed activities.

(2) The impact and effectiveness of the client housing provided and proposed to be provided by the applicant. Impact and effectiveness will be evaluated based on such items as the range and quality of client housing provided, including the self–sufficiency development services provided with transitional housing; how the proposed activity(ies) address community needs; and the demonstrated effectiveness of the applicants' current and proposed programs to move homeless persons into a self–supporting environment.

(3) The cost–efficiency of the proposed use of grant funds for providing client housing. Cost efficiency will be evaluated based on such items as the type and amount of client housing provided compared to the project budget; the demonstrated availability of other financial resources besides EHAP to support achievement of the proposed activity(ies); the need for EHAP funds; leveraging of EHAP with other funds; non–duplication of services; and coordination with other organizations.

(c) Each of the following selection criteria shall be specified in the regional NOFA:

(1) The applicant's capability of achieving the activities and results proposed in the application;

(2) The impact and effectiveness of the client housing provided and to be provided by the applicant;

(3) The cost–efficiency of the proposed use of grant funds for providing client housing;

(4) The extent to which the local needs, goals and priorities identified in the LESS are met and achieved, respectively, by the applicant's proposed activities; and

(5) Any additional criteria as identified in the LESS approved by the Department pursuant to section 7956.

(d) The Department or DLB, respectively, shall provide in the NOFA the subcriteria and the point system to be used for selecting grantees for awards from that allocation.

(e) Applications shall be individually rated and then ranked in descending order. Funds will be awarded to eligible applicants in each region in descending rank order for the amount requested in the corresponding eligible application, until the remaining funds are insufficient to fully fund the next highest ranked application(s). Then,

(1) The next highest rated and ranked unfunded application following the full funding of the highest rated and ranked applications shall be partially funded if the funded activities can be adequately completed with the EHAP funds awarded.

(2) In the event of a tie for applicants in the lowest–ranked position to be funded, the Department or DLB, as applicable, will review the tied applications again and break the tie before continuing the award process.

(f) Each application submitted to a DLB for a capital development grant shall be evaluated by an RTE, which shall:

(1) Determine whether the application is feasible, pursuant to a competent, comprehensive evaluation pursuant to the standards provided in subsection 7966(i); and

(2) Provide a written and certified summary of its evaluation and determination, and append this to the application.

(g) A DLB shall make the final rating and ranking of eligible applications in sufficient time to allow for appeals prior to the date the DLB transmits the subsequent initial grant selections to the Department for confirmation.

(h) A DLB shall transmit the initial grant selections to the Department for confirmation no later than 150 days after the date the LESSes are due for the annual allocations from which the selections were made. Up to a 30–day extension of the deadline may be granted by the Department upon written request by the DLB for circumstances beyond DLB control.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Section 50802.5, Health and Safety Code.

HISTORY

1. New section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7968. Appeal Process.

(a) Any applicant shall be entitled to appeal the grant selection activities or other activities of the DLB for the region it serves and to which it applied, by submitting a written petition for a hearing to the DLB within seven days following the date the DLB makes the final rating and ranking of eligible applications available to the public.

(1) The written petition shall:

(A) Provide the name, address and telephone number of the petitioner;

(B) Clearly describe each activity disputed;

(C) Clearly explain why the activity is disputed; and

(D) State the remedy the petitioner is seeking.

(2) Upon receipt of the complete petition, the DLB shall set a time and place for a hearing and shall provide the petitioner with written notice of the scheduled hearing. The hearing shall be scheduled for a date no more than fifteen days following the date of the petition.

(3) The hearing shall provide the petitioner with the opportunity to be heard and to show cause why the DLB's grant selection or other activity is disputed and why the remedy sought is appropriate.

(4) Within seven days following the hearing, the DLB shall provide the petitioner with a written determination of the appeal.

(b) A petitioner who has received a negative determination from a DLB shall be entitled to appeal to the Department for a review of the determination if the appeal is regarding the DLB's failure to follow the procedures established in the LESS or for violating the program regulations or statute. The petitioner's written petition must be received for review by the Department, within ten days after the petitioner's receipt of the DLB's determination of its appeal, or upon failure of the DLB to follow the appeal procedures contained in the LESS.

(1) The written petition shall:

(A) Include the information listed in subsection (a)(1);

(B) Clearly explain why the activity continues to be disputed; and

(C) Include copies of the original petition to the DLB, the determination issued by the DLB, and all documentation the petitioner possesses that is relevant to the appeal.

(2) Upon receipt of the petition, the Department shall determine whether the petition challenges the judgment or the procedures of the DLB.

(A) If the Department determines that the petition challenges the judgment of the DLB, or challenges the procedures established in the approved LESS approved by the Department, the Department shall deny the petition.

(B) If the Department determines that the challenge in the petition is that the procedures used by the DLB were not established in the LESS approved by the Department, the Department shall review the records and the petition and shall issue a written determination within 21 days of the receipt of the appeal petition.

(C) If the Department determines that the procedures established in the LESS approved by the Department were not followed, the Department shall issue a written determination to that effect and shall initiate corrective action.

(3) Corrective action shall include, as appropriate, imposing restrictions on the activities of the DLB or requiring the DLB to repeat the grant selection process and/or revoking the designation of the local board.

(c) Any applicant from a region without a DLB shall be entitled to appeal the grant selection activities of the Department by submitting a written petition to the Department. The petition must be received within ten days following the date the Department makes the final rating and ranking of eligible applications available to the public.

(1) The written petition shall include the information listed in subsection (a)(1).

(2) Within 21 days of receipt of the petition, the Department shall respond in writing to the petition and make a determination based on the information available.

(3) Each determination shall clearly state the findings upon which the Department's determination is based, and identify any corrective action to be taken.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50801.5, 50802.5 and 50803.5, Health and Safety Code.

HISTORY

1. Repealer and new section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section heading and section transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7969. Confirmation Process for Initial Grant Selections of a Designated Local Board.

(a) All grant selections made by DLBs shall be subject to confirmation by the Director.

(b) The transmittal of initial grant selections by a DLB to the Department shall include all of the following:

(1) An overview of the DLB actions taken on all applications,

(A) Organized into three groups: those applications deemed ineligible, those deemed eligible and selected for funding, and those deemed eligible but not selected for funding; and

(B) Identifying each application by applicant name, grant type, grant amount requested, eligibility, the rate and rank achieved by each eligible application during the selection process, and the DLB's initial funding determination; and

(C) Providing, for each application deemed ineligible, an explanation of the basis for that determination; or

(D) Providing, for each application deemed eligible a summary of the score achieved on each criterion, and the proposed grant amount.

(2) A certification by the DLB that it complied with the LESS as approved by the Department;

(3) For each application for a capital development grant, certified copies of the evaluations and determination of the RTE as required by subsection 7966(h), including copies of all supporting documentation upon which the evaluations and determination are based;

(4) For all applications recommended for funding, certification that the DLB reviewed and identified no irregularities with,

(A) The eligibility of the applicants, applications, and activities recommended for funding;

(B) The applicant's fiscal records for the prior fiscal year;

(C) The proposed client housing and/or client services and intake procedures;

(D) The availability of the additional operating funds necessary to provide the proposed client housing; and

(E) Conformance with regulations.

(c) If the transmittal is incomplete, the Department shall notify the DLB in writing within 20 days and shall include specific requests for additional documentation.

(d) If the transmittal is complete but a portion of one or more of the selected applications is found to be ineligible (such as an ineligible activity), the Department shall notify the DLB and may adjust the application to eliminate the problem if this adjustment does not affect the DLB's overall funding recommendations.

(e) Within 45 days of the receipt of a complete transmittal of initial grant selections from a DLB, the Department shall provide written notification to the DLB and to each applicant selected by the DLB of one of the following determinations:

(1) The selection by the DLB is confirmed; or

(2) The DLB's application selection is confirmed with specified conditions; or

(3) The DLB's applicant selection is not confirmed.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Section 50802.5, Health and Safety Code.

HISTORY

1. New section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7970. Grantee Contract Requirements.

(a) Following a grant award by the Director, the Department shall contract directly with the grantee. The contract shall be known as the "standard agreement" and shall include the items specified in this section.

(b) The following information shall appear in each standard agreement:

(1) A clear and accurate identification of the grantee and the Department;

(2) The timeframe for the performance of the approved project activities;

(3) The amount of the grant, clearly expressed as the maximum amount, and the basis upon which payment is to be made; and

(4) A clear and complete statement of the activities and services the grantee will perform and provide.

(c) Timeframes for the performance of approved project activities shall be as follows:

(1) Approved project activities for operating facility grants shall commence within two months of the effective date of the standard agreement and shall be completed within fourteen months of the effective date of the standard agreement. No extension of this contract term shall be granted.

(2) Approved project activities for a capital development grant shall commence within six months of the effective date of the standard agreement and shall be completed within two years of the effective date of the standard agreement.

(A) The commencement of project activities for a capital development grant shall mean either closing escrow on the purchase of a facility or acquiring a building permit for construction, conversion or rehabilitation.

(B) The completion of project activities for a capital development grant shall mean acquiring a certificate of occupancy, where applicable.

(C) If requested by the grantee, the Department may approve an extension to a standard agreement for a capital development grant not to exceed twelve months, if the Department finds that such an extension is essential for the successful completion of approved project activities.

(d) Each standard agreement shall provide that a grantee shall request and receive grant payments only under conditions which protect the Department's interests.

(e) The following performance requirements shall appear in each standard agreement and shall include additional provisions specific to each grantee:

(1) That the grantee shall submit to the Department and the DLB, as applicable, reports on the progress toward the completion of approved activities during the term of the standard agreement;

(2) That the grantee shall maintain accounting books and records in accordance with generally accepted accounting standards;

(3) That the capital development grantee shall provide the Department with a security interest in any real or personal property acquired or improved with program funds. The security interest shall be sufficient to secure the continued compliance by the grantee with specified terms of the standard agreement.

(f) The standard agreement may require monitoring utilizing a workplan prepared by the grantee as part of its application and incorporated by reference as part of the standard agreement.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Section 50802.5(e), Health and Safety Code.

HISTORY

1. Repealer and new section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7971. Procedures and Requirements for Procuring Contracts for Services or Materials Under a Capital Development Grant.

(a) Each grantee awarded a capital development grant shall ensure that the requirements of this section are complied with

(1) In all its contracts or subcontracts for services and materials to be paid for with grant proceeds; and

(2) By all its contractors and/or subcontractors providing or contracting for services and/or materials to be paid for with grant proceeds.

(b) Prior to the disbursement of grant funds for any contract for services or materials required for eligible activities under a capital development grant, all construction or service contractors or subcontractors shall provide evidence satisfactory to the Department, of compliance with the requirements of this section.

(1) The grantee shall provide to the Department copies of the proposals from consultants and/or contractors for the Department's review and approval.

(2) The Department's review and approval shall be based on the proposed budget, the applicant's experience, the price of the services, and related factors, and shall be completed within 15 days of receipt of complete information from the grantee.

(c) No contract or subcontract using EHAP funds in excess of $25,000 shall be awarded without the prior review of the Department and without written approval from the Department. The Department shall not unreasonably withhold approval of said contracts.

(d) Each grantee entering into contracts for construction or rehabilitation services or materials shall have:

(1) Written bidding procedures and shall have invited bids from as many prospective bidders as is practical;

(2) Awarded the contract to the lowest responsible bidder or shall have rejected all bids;

(3) Established a method of monitoring the contract; and

(4) Maintained and make available to the Department detailed records and accounts of contracts for services and or the purchase of materials.

(e) Each contract for construction or rehabilitation services or materials shall comply with all applicable program requirements and all applicable terms and provisions of the standard agreement.

(f) Each contract shall include a provision stating that the records of the contracting parties shall be subject to audit by the Department for a period of five years after the termination of the Standard Agreement.

(g) Each contract shall include a provision stating the method and schedule of payments and shall provide for the retention of an amount of not less than ten percent from each progress payment, until such time as the lien-free completion of the project is ensured.

(h) Each construction or rehabilitation contract of $25,000 or more shall include a security provision requiring the contractor to provide a performance and payment bond or an alternate, yet equivalent, form of security, such as a letter of credit.

(1) Any form of security, required of such a contractor and/or a subcontractor, other than a performance and payment bond, is subject to the prior review and approval of the Department.

(2) The security shall be in an amount equal to one-hundred percent of the amount of the successful bid.

(i) Each construction or service contractor or subcontractor shall be appropriately licensed by the California State Contractors Licensing Board and shall be insured as required by State law.

(j) The grantee shall establish procedures which ensure that disbursements are properly expended by, or on behalf of, the grantee. Such procedures shall include:

(1) Performing on-site inspections of the construction or rehabilitation work; and

(2) Using progress inspection reports as the basis for issuing payments to contractors or subcontractors.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Section 50802.5, Health and Safety Code.

HISTORY

1. New section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7972. Requirements for Construction, Conversion or Rehabilitation Performed by the Grantee.

(a) A grantee, which chooses to perform all or part of the labor and/or to provide all or part of the materials necessary to construct or rehabilitate the approved project, shall comply with the requirements of this section.

(b) Grant proceeds shall not be used to pay any family member of any person on the board of directors or staff of the grantee.

(c) The grantee shall enter into a written contract with each subcontractor, pursuant to the requirements of section 7971.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50802.5 and 50803, Health and Safety Code.

HISTORY

1. Repealer and new section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day.
2. Repealer and new section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10-31-94 as an emergency; operative 10-31-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-28-95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7973. Budget Changes.

(a) After the award is made, the Department may approve changes to a project budget provided the requested budget change complies with either subsection (b) or (c).

(b) The proposed budget change:

(1) Does not substantially change the specific clients served by the approved project activities; and

(2) Continues to meet the priorities and criteria imposed during the respective grant selection process; and

(3) Results in a product, substantially the same as the originally-approved product, that costs the same as or less than the originally proposed product; and

(4) Will be completed by substantially the same date as allowed for the originally proposed product.

(5) In competitive regions, does not affect the list of awarded applications in a manner which would cause any application to be added to or removed from the list.

(c) The proposed budget change will result in a significant increase in benefits related to the local program.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50802.5 and 50804.5, Health and Safety Code.

HISTORY

1. New section filed 3-18-94 as an emergency; operative 3-18-94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7-18-94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7-8-94 as an emergency; operative 7-8-94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-7-94 or emergency language will be repealed by operation of law on the following day.
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5. Repealer and new section refiled 6-15-95 as an emergency; operative 6-15-95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-13-95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6-15-95 order including amendment of section transmitted to OAL 6-26-95 and filed 7-12-95 (Register 95, No. 28).

§ 7974. Disbursement Procedures.

(a) Funds shall be disbursed on the basis described in the standard agreement.

(b) For capital development grants, the Department may require the grantee have an escrow account, a construction fund control account, or a comparable type of account for acquisition, construction, conversion and rehabilitation activity, as applicable.

(c) The Department may rely on the grantee's certification that expenditures claimed in a request for disbursement are eligible and necessary, provided that the grantee also certifies that detailed supporting documentation verifying each expenditure is available and shall be retained by the grantee for five years after the termination of the standard agreement.

(d) Upon receipt and review of acceptable documentation the Department may provide an initial advance disbursement of up to fifty percent of the grant amount for operating expenditures. Advances are not permitted for capital development-type expenditures.

(e) As necessary, the Department shall establish minimum disbursement amounts or other related procedures necessary for the efficient administration of the program.

(f) If a grantee uses program funds for the costs of ineligible activities, the grantee shall be required to reimburse the funds to the EHAF and shall be prohibited from applying for subsequent allocations until fully repaid.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50802.5 and 50803, Health and Safety Code.

HISTORY

1. New section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section and NOTE transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7975. Monitoring Grant Activities and Closing–out Grants.

(a) Each DLB shall monitor the subsequent activities funded by grants from an allocation to the DLB's region.

(b) The Department shall monitor activities funded by grants selected and awarded by the Department pursuant to a Statewide NOFA or where the DLB's designation has been terminated and it has transferred its records to the Department per section 7953(j) and may monitor grantees in DLB regions pursuant to the terms of the standard agreement.

(c) When a DLB is responsible for monitoring grant performance, the DLB may review and approve each request for disbursement from grant funds prior to submittal to the Department for review, approval, and payment.

(d) A DLB shall report immediately to the Department

(1) Any failure by a grantee to comply with the requirements of the program and/or the standard agreement; and

(2) Any need for the Department to halt the disbursement of grant funds or to halt activities funded by a grant.

(e) In order to close–out a grant the grantee shall:

(1) Provide a summary of the activities serving clients during the period of the grant, an estimate of the number of clients served with EHAP funds, and the corresponding expenditures for each approved eligible activity; and

(2) Demonstrate that all expenditures are supported by invoices and receipts.

(f) If a DLB supervises the close–out activities, the DLB shall provide a written certification that all grant–supported activities were conducted in compliance with program requirements.

(g) If it is determined that a grantee falsified any certification, application information, financial or contract reporting, the grantee shall be required to reimburse the full amount of the grant to the EHAF and shall be prohibited from any further participation in the EHAP.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. *Reference: Section 50802.5, Health and Safety Code.*

HISTORY

1. New section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

§ 7976. Performance Evaluation of a Designated Local Board.

(a) The Department shall evaluate the performance of each DLB on an annual basis.

(b) This process shall involve an evaluation of the degree to which:

(1) Eligible recipients in the region participate in the development of the LESS;

(2) The performance of the DLB conforms to the procedures and requirements of the LESS and the requirements of this subchapter;

(3) The DLB achieves the goals and objectives established in the LESS, as measured by the eligible applications received and selected within the region;

(4) The participation of the DLB resulted in the increased efficient and effective use of program funds allocated to the region; and

(5) Program grant activities within the region are monitored and, consequently, the degree to which grant activities conform to program requirements.

NOTE: Authority cited: Sections 50402, 50801.5 and 50806.5, Health and Safety Code. Reference: Sections 50801.5 and 50802.5, Health and Safety Code.

HISTORY

1. New section filed 3–18–94 as an emergency; operative 3–18–94 (Register 94, No. 11). A Certificate of Compliance must be transmitted to OAL 7–18–94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7–8–94 as an emergency; operative 7–8–94 (Register 94, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–7–94 or emergency language will be repealed by operation of law on the following day.
3. Repealer and new section refiled 10–31–94 as an emergency; operative 10–31–94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–28–95 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section refiled 2–15–95 as an emergency; operative 2–15–95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–15–95 or emergency language will be repealed by operation of law on the following day.
5. Repealer and new section refiled 6–15–95 as an emergency; operative 6–15–95 (Register 95, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–13–95 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–15–95 order including amendment of section heading and section transmitted to OAL 6–26–95 and filed 7–12–95 (Register 95, No. 28).

Subchapter 13. Mobile Home Park Resident Ownership Program

Article 1. General

§ 8000. Scope and Authority.

These regulations establish the Mobilehome Park Resident Ownership Program and the policies and procedures for the allocation and use of financial assistance from the Mobilehome Park Purchase Fund consistent with the objectives and requirements of the statutes. The department may provide financing from the fund for the following types of program loans:

[The next page is 425.]

(a) conversion loans, pursuant to Section 8006;

(b) blanket loans, pursuant to Section 8008; and

(c) individual loans, pursuant to Section 8010.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 50406, 50406.2 50780, 50781, 50783 and 50784, Health and Safety Code.

HISTORY

1. New Subchapter 13 (Sections 8000–8032, not consecutive) filed 11–25–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 48).

2. Amendment of subchapter heading, section and NOTE filed 5–11–2001; operative 5–11–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

§ 8002. Definitions.

In addition to the definitions found in Section 50781 and Chapter 2 (commencing with Section 50050) of the Health and Safety Code, the following terms and definitions shall apply to this subchapter.

"Affordable housing costs" means that the housing costs for a low–income resident shall not exceed 30% of that resident's monthly gross income unless the department approves an amount exceeding this standard based on one or more of the following conditions which provide overriding and special reasons for exceeding this goal:

(a) the project would be financially infeasible without housing costs in excess of this standard due to factors such as lenders' more stringent underwriting requirements for park conversions, lack of adequate financial assistance, unique factors which limit project rental income, exceptional conversion costs beyond the control of the residents, or other similar extraordinary factors approved by the department; or

(b) a satisfactory credit record has been maintained by the household, and the household has demonstrated an ability to sustain the proposed housing expense; or the department determines that the eligible household can assume such greater responsibility based on an analysis of future anticipated income or reduction in debt.

If the 30% of income standard cannot be achieved, under no circumstances shall the housing costs of a low–income resident exceed the greater of 40% of the resident's gross monthly income or the resident's housing prior to the conversion.

"Code" means the California Health and Safety Code.

"Committee" means the committee designated by the director pursuant to Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of this Part.

"Equity" means a cash contribution or interest in the property pledged as collateral, but does not include secured debt junior to the department's loan.

"Gross income" means all income as defined by Section 6914 of this Part received by a resident except that the value of net family assets shall be limited to the actual amount of income derived from those assets.

"Housing costs" means the housing cost of a purchaser as defined in Section 6920 of this Part.

"Individual interest" means an individual interest in a mobilehome park as defined in Section 50781 (f) of the Code.

"Loan Originator" means an entity approved by the department to underwrite or originate loans, or evaluate the eligibility of applicants for program assistance.

"Local public entity" has the same meaning as set forth in Section 50079 of the Code.

"Low–income resident" means a person or household who is a resident of the mobilehome park and who is a lower– income household as defined in Section 50079.5 of the Code and Subchapter 2 of Chapter 6.5 of this Part, with the exception that gross income shall be calculated pursuant to the definition in this subchapter.

"Mobilehome" means any of the following:

(a) a mobilehome as defined in Section 18008 of the Code.

(b) a manufactured home as defined in Section 18007 of the Code.

(c) a recreational vehicle as defined in Section 18010 of the Code.

(d) factory–built housing as defined in Section 19971 of the Code.

"Mobilehome park" means mobilehome park as defined in Section 50781(i) of the code.

"Mortgage lender" means a bank or trust company, mortgage banker, federal or state chartered savings and loan association, credit union or other financial institution, or a local public entity.

"Need for Assistance" means the amount of program assistance required to achieve affordable housing costs for low–income residents.

"Program" means the Mobilehome Park Resident Ownership Program.

"Project" means a mobilehome park which has received a loan commitment or loan pursuant to this subchapter.

"Qualified nonprofit housing sponsor" means a nonprofit housing sponsor as defined in Section 50781(k) of the Code.

"Rehabilitation" means substantial repairs and improvements to the project which are necessary to a) conform with legally authorized requirements of state or local government in order to receive approval to convert the park to resident ownership, b) meet reasonable and minimum property standards established by a lender for the project, and c) alleviate all substandard conditions which violate the Mobilehome Parks Act, Section 18200, et. seq., of the Code.

"Resident" means an individual or household who actually resides in a mobilehome park as that person's principal residence.

"Resident organization" means an organization of mobilehome park residents which has all of the following characteristics:

(a) is a legally recognized entity;

(b) is able to enter into a contract;

(c) is capable of suing or being sued;

(d) may include residents from more than one park; and

(e) has as members no less than two–thirds of the residents from each park that is represented by the organization.

"Resident ownership" means the ownership of an interest in a mobilehome park by a resident organization, which entitles the resident organization to regulate the operations of the mobilehome park for a term of no less than 15 years, or the ownership of individual interests by residents in a mobilehome park, or both.

"Rural area" means an area as defined in Section 50199.21 of the Code.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 18008, 18007, 18010, 18200, et. seq., 19971, 50050–50105, 50406, 50780, 50781, 50782, 50783, 50784, 50785, 50786 and 50786.5, Health and Safety Code; and Sections 6900 et seq., Title 25, Administrative Code.

HISTORY

1. Amendment of section and NOTE filed 5–11–2001; operative 5–11–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

2. Amendment of definition of "Rural area" filed 7–11–2005; operative 8–10–2005 (Register 2005, No. 28).

Article 2. Program Requirements

§ 8004. General Provisions.

(a) The department shall make loans to eligible borrowers for eligible projects pursuant to this subchapter. Program loans shall be subject to terms and conditions which meet the requirements of the Code and this subchapter. Loans shall be secured by the best available security. In all cases, the term of any loan shall not exceed the lesser of either the term of the ownership interest or the economic life of the property. Program loans shall bear interest at the rate of three percent (3%) simple interest per annum, unless a different statutory rate is specified. Monthly payments shall be required for all loans unless an alternative repayment schedule is approved pursuant to subsection (d). The department may assess late fees or penalties for late payments not to exceed more than 5% of the scheduled payment. Loans provided pursuant to this subchapter shall not be assumable by another borrower, except where the department determines that an assumption by another eligible borrower is necessary to prevent a financial loss. The terms of assumption may be different than originally underwritten and offer the greatest opportunity for full repayment as determined by the department.

(b) In order to be eligible to apply for assistance pursuant to this subchapter, a project must be a mobilehome park in which at least one low income household is a resident. Parks to be acquired by nonprofit housing sponsors and local public entities must have the support of at least two-thirds of the residents living in the park in order to be eligible to apply for program funding. In a resident owned park, the resident organization must have the support of at least 2/3rds of the residents at the time of application, and 2/3rds of the residents must participate as members of the resident organization at the time of funding. The park upon completion of the conversion must meet the minimum standards of the Mobilehome Parks Act. Eligible Projects costs may include conventionally constructed dwellings and nonresidential structures provided that such structures and the underlying land are used by the resident organization as common recreational facilities, office or storage space, or which generate revenue for the benefit of all residents of the park, or which serve other purposes available to all residents of the park.

(c) The department shall establish maximum limits on the amount of funds which may be committed to a project pursuant to this subchapter. The maximum loan limit for any single project shall be based upon factors such as the amount of funds available, anticipated program revenue, the required rural set-aside, and the size of anticipated or pending loan applications. The limitation on commitment size will be specified in each request for proposals and approved by the Director when it is issued for this program.

(d) The department may consider requests for alternative repayment schedules for program loans from applicants and borrowers. Such requests shall propose the repayment schedule desired and provide evidence that an alternative schedule is necessary for the financial feasibility of the project and/or to achieve affordable housing costs. The department may approve the request, in whole or in part, if the need is demonstrated and the program's security interest will be adequately protected through the alternative schedule. The decision to approve an alternative repayment schedule shall be within the sole discretion of the department. All loan applications for conversion or blanket loans that request an alternate repayment schedule shall be reviewed by the committee prior to the director's approval.

(e) Program funds may not be used to facilitate the purchase of a park by a qualified nonprofit corporation or a local public entity from a public entity that acquired the park prior to the commitment of the loan from the program.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 18200, et. seq. 50406, 50406.2, 50783, 50784 and 50786, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).
2. Amendment of subsections (a) and (d) filed 7-11-2005; operative 8-10-2005 (Register 2005, No. 28).

§ 8006. Conversion Loans.

(a) Conversion loans from the fund shall provide short term financing for conversion costs to resident organizations, qualified nonprofit housing sponsors, and local public entities. Conversion loans shall not exceed any of the following:

(1) To the extent possible, 50 percent of the conversion costs for the project. However, the loan may be up to 95 percent of the approved conversion costs attributable to the percentage of lower income households in the park when approved by the department.

(2) the maximum loan amount established in each request for proposals pursuant to Section 8004(c).

In addition, the total debt secured in a senior position to the department's loan plus the department's loan shall not exceed the value of the collateral securing the loan. The amount of any item of conversion cost shall be subject to department approval based on its necessity, reasonableness, eligibility, and impact on the financial feasibility and security of the project. The loans shall have a maximum term of three years. Borrowers shall make monthly payments of interest only during the loan term unless an alternative repayment term has been approved pursuant to Section 8004(d) and shall repay the loans upon the recordation of permanent financing documents to complete the conversion of the project.

(b) Conversion loans shall provide only supplemental interim financing for conversion costs directly related to the conversion and shall be prorated or limited pursuant to subdivision (a). Conversion loans may be used for conversion costs including, but not limited to, the following items to the extent approved by the department:

(1) the acquisition cost of the mobilehome park;

(2) loan origination, appraisal, inspection, and other related financing costs;

(3) title and escrow fees, recording fees, and other related closing costs;

(4) engineering, legal and other professional fees;

(5) expenditures required to obtain governmental approvals;

(6) relocation costs pursuant to Section 8020;

(7) rehabilitation costs; and

(8) contingency funds.

(c) Conversion loans to local public entities shall comply with the following requirements in addition to those requirements in subdivision (a) and (b):

(1) Program commitments to local public entities must be made prior to the acquisition of the park:

(2) At the time of funding the park to be acquired must have at least 30% low income residents;

(3) Residents participation must be ensured by either resident representation on the Board of Directors of the entity that acquires permanent ownership of the park or by representation on a permanent resident advisory board.

(4) Where a park is acquired by a local public entity for transfer to a nonprofit sponsor or resident organization, the transfer must occur within 3 years or the loan must be repaid in full to the department. An additional 3 years may be granted upon a determination by the department that a good faith effort to transfer the park has been made.

(5) Where loans are made to a qualifying nonprofit housing sponsor or a local public entity, a regulatory agreement which regulates occupancy, rents and park operations shall be recorded.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 50406, 50781(b), 50783, 50784, 50785(a)(5) and 50786(c), Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

§ 8008. Blanket Loans.

(a) Blanket loans from the fund shall provide long term permanent financing to resident organizations, qualified nonprofit housing sponsors and local public entities for the purpose of achieving affordable housing costs for low-income residents.

The loans shall not exceed any of the following:

(1) To the extent possible, 50 percent of the conversion costs attributable to low-income spaces. The department may approve loan amounts up to 95 percent of the approved conversion costs attributable to the percentage of lower income households in the park. The department may grant the higher loan amounts only if the project applicants demonstrate that no other funds are available and the project would not otherwise be feasible.

(2) the aggregate need for assistance of low-income residents who possess the tenancy rights of Sections 798.12 of the Civil Code. The amount approved for a blanket loan, as a percentage of the total project cost, shall not exceed the percentage of park residents who are low income.

(3) the loan limit established pursuant to Section 8004(c).

Projects receiving blanket loans shall have department-approved programs of assistance for low-income residents. A program of assistance shall establish the financial mechanism used by a resident organization to direct the benefits of a blanket loan to low-income residents, which may include, but is not limited to rent skewing and internal loans. The amount of any item eligible for funding with a blanket loan shall be sub-

ject to department approval based on its necessity, reasonableness, eligibility, and impact on the financial feasibility and security of the project.

Blanket loans shall not have terms in excess of 30 years. The loans shall have monthly payments amortized over the term of the loan unless an alternative repayment schedule has been approved pursuant to Section 8004 (d). In addition, the total debt secured in a senior position to the department's loan plus the department's loan shall not exceed the value of the collateral.

(b) Blanket loans may provide funds to eligible borrowers for the following eligible costs, to be prorated or limited to pursuant to subdivision (a):

(1) to repay a conversion loan or replace interim or short–term financing that was used to acquire or rehabilitate the park. For purposes of this subchapter, "short–term" means not over three years;

(2) to pay, to the extent approved by the department, any costs eligible for conversion loans listed in subdivision 8006(b);

(3) to establish operating reserves;

(4) to provide long–term financing for a project;

(5) to supplement other public or private financing;

(6) to enable low–income residents to obtain individual interests; or

(7) to enable low–income residents to remain in the project.

(8) subject to Section 50784(h) of the Code, program funding may be used to finance the cost of relocating the residents of a mobilehome park to a more suitable site within the same jurisdiction.

(9) to pay developer fees for qualified nonprofit housing sponsors, not to exceed tax credit limits if the project receives federal tax credits, or if the project does not receive tax credits, five percent of total project cost or $100,000, whichever is greater.

(c) Nonprofit Housing Sponsors shall comply with the following requirements in addition to those in subdivision a and b:

(1) The parks must have at least 30% low income residents at the time of funding.

(2) Parks that are acquired by a nonprofit housing sponsors shall ensure resident participation by either having resident representation on their Board or by establishment of a permanent resident advisory board.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 50406, 50406.2, 50784 and 50785(a)(5), Health and Safety Code; and Sections 798.12 and 799.45(b), Civil Code.

HISTORY

1. Amendment of section and NOTE filed 5–11–2001; operative 5–11–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

§ 8010. Individual Loans.

Individual loans from the fund shall provide long term permanent financing to low–income residents for the purposes of acquiring an individual interest and achieving affordable housing costs. In order to be eligible for an individual loan, a low–income resident must possess the tenancy rights of Section 798.12 of the Civil Code, or have entered into one or more agreements to rent and occupy a park space and mobilehome prior to project application. The loans shall not exceed any of the following:

(1) To the extent possible, 50 percent of the acquisition cost of the individual interests including nonrecurring closing costs,

(2) the need for assistance or

(3) the maximum loan amount established pursuant to Section 8004(c). However, the loan amount may be approved for up to 95 percent of the approved acquisition costs of the individual interest in the park if the lower income resident can demonstrate that no other funding is available and the purchase would not otherwise be feasible. In addition, borrowers of individual loans shall possess no less than 5 percent equity in the collateral securing the loan. For the purposes of this section, equity does not include secured debt junior to the department's loan. The amount of any item eligible for funding with an individual loan shall be subject to departmental approval based on its necessity, reasonableness, eligibility and impact on the financial feasibility and security of the project. Individual loans shall not have terms in excess of 30 years. The loans shall have monthly payments amortized over the term of the loan unless an alternative repayment schedule has been approved pursuant to Section 8004(d).

Where a local public entity acquires a park and applies for program assistance for the purchase of individual interests, the program may make individual loans when a simple majority of households residing in the park actually purchase, or have opened escrow to purchase, interests or spaces in the park.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 50406, 50406.2, 50781, 50784 and 50786.5, Health and Safety Code; and Sections 798.12 and 799.45 (b), Civil Code.

HISTORY

1. Amendment of section and NOTE filed 5–11–2001; operative 5–11–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

Article 3. Application and Funding Procedures

§ 8012. Applications for Loan Commitments.

(a) The department shall award loan commitments through the issuance of requests for proposals. The requests for proposals shall identify whether applications will be accepted on a competitive basis with a specified deadline and/or on an over–the–counter basis. The department will determine which method will best implement the goals and purposes of the program. Applicants may submit applications for loan commitments only in response to a request for proposals issued by the department. A single application shall be submitted for a commitment for all program loans desired for the project.

(b) Department forms shall be used for applications which shall include the following.

(1) evidence of the eligibility of the applicants, project, and all activities;

(2) a description of the project and how the program funds will be used;

(3) a detailed plan and scheduled for implementing and administering the project;

(4) a detailed financial plan for the project which identifies the anticipated sources of all financing and the proposed specific uses for program funds;

(5) the qualifications of the parties implementing and administering the project;

(6) evidence or a certification of compliance with relevant state and local laws and ordinances, or a detailed description of how and when compliance will be achieved;

(7) evidence signed by a representative of the local government that the project complements the implementation of a local housing program to preserve or increase the supply of housing for persons and families of low and moderate income, and will be consistent with local zoning and land use policies upon completion.

(8) evidence that the resident organization has site control which means the right or ability to obtain possession of the mobilehome park for a period of not less than 15 years. Such evidence includes, but is not limited to, an executed contract to purchase, an executed irrevocable option agreement, or a written agreement from the property owner to convert the mobilehome park to resident ownership;

(9) a program of assistance for low–income residents if a blanket loan is requested;

(10) a statement concerning the potential for displacement of residents from the project and a plan to provide specific mitigation measures or relocation benefits consistent with Section 8020;

(11) a commitment from a loan originator selected by the applicant or a plan for selecting a loan originator to originate individual loans if the application is exclusively for such loans;

(12) written authorization from the applicant's governing boards in the form of a certified resolution to submit an application for a loan commitment;

(13) any commitments from the local public entity and/or other sources to provide financial and other assistance to the project; and

(14) other information required by the department to determine the eligibility of, evaluate the feasibility of, and rate the project.

(c) The department shall have sole discretion to approve or disapprove the adequacy of each item in the application based on the criteria for review in Section 8014. Where the department concludes that information is inadequate it may return applications for additional information or reject applications if it deems that the inadequacies cannot be cured within a reasonable time.

(d) The department shall condition any release of funds on completion of any items which are not completed at the time of application.

NOTE: Authority cited: Sections 50406(n) and 50786, Health and Safety Code. Reference: Sections 50406, 50406.2 and 50786, Health and Safety Code.

HISTORY

1. Amendment filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).
2. Amendment of subsections (a), (b)(12) and (b)(14) filed 7-11-2005; operative 8-10-2005 (Register 2005, No. 28).

§ 8014. Review and Rating of Projects.

(a) The department shall rate applications and award funds based upon the following criteria:

(1) the extent to which the project achieves the goal of limiting housing costs for low-income residents to 30% of gross monthly income;

(2) the extent to which there will be no involuntary displacement from the project;

(3) the extent to which the project is prepared to convert based upon the speed and ease with which the project can be completed once funds are awarded;

(4) the capacity of the borrower, loan originator, consultants and other parties to complete the project and fulfill the requirements established for the program by this subchapter;

(5) the extent to which the proposed ownership structure provides long-term security of tenure.

(6) the extent to which the project complements local programs or plans to preserve or increase the supply of low and moderate income housing and mobilehome park spaces;

(7) the degree of support provided to the project by the residents, local government and other parties;

(8) the financial feasibility of the whole project, including the rents from all residents and their relationship to reasonable market rents, the total cost of conversion and operation, and other factors which relate to the security of the department's loans;

(9) the extent to which program funds will be used in the most efficient manner to assist the maximum number of low-income residents;

(10) the extent to which the project has the lowest possible costs given program requirements and local market conditions;

(11) the extent to which the project will receive below market financing and other assistance, including the value of administrative functions provided by a local public entity pursuant to Section 8018(c). The department shall take into account the resources which are available to the local public entity when considering this factor;

(12) the allocation of funds throughout the State pursuant to Section 50785 of the Code; and

(13) the awarding of additional points for applications from resident owned parks.

(b) In the event that eligible applications are received requesting more funds than are available for award, the department will rank applications according to scores received pursuant to paragraph (a) of this section.

(c) In each request for proposals, the department shall allocate no less than 20% of the funds available for this program to rural areas. In the event that there is an inadequate number of rural project applications that are feasible based on the factors in subsection (a), the department may make additional awards to non-rural projects.

NOTE: Authority cited: Sections 50406 (n) and 50786 (a), Health and Safety Code. Reference: Sections 50406, 50406.2, 50780, 50785 and 50786, Health and Safety Code.

HISTORY

1. Amendment of subsections (a)(4)-(a)(5) and (a)(11)-(a)(12) and new subsection (a)(13) filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).
2. Amendment of section heading and subsection (a), new subsection (b) and subsection relettering filed 7-11-2005; operative 8-10-2005 (Register 2005, No. 28).

§ 8016. Approval of Projects and Commitment of Funds.

(a) Program staff shall review applications for loan commitments and prepare recommendations based on the above factors. Applicants shall be notified of the staff recommendation and of the date and time that the committee will consider their applications.

(b) The committee shall evaluate applications and make recommendations to the director pursuant to Section 6904 of this Part.

(c) The director shall review the committee recommendations and approve, approve with amendments, or disapprove the applications. The director's decision shall be final. Written notification of the approval of an application shall constitute a conditional loan commitment from the fund.

(d) The department shall inform the applicant in writing of the director's decision. An approval shall set forth the terms and conditions, if any, placed on the approval.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 50406, 50406.2 and 50786, Health and Safety Code.

Article 4. Program Operations

§ 8018. Responsibilities of Local Public Entities.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 50406, 50406.2 and 50786, Health and Safety Code.

HISTORY

1. Repealer filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

§ 8020. Displacement and Relocation.

(a) The project shall ensure that no resident is involuntarily displaced from the project without proper notice, assistance and compensation. A resident who is offered an opportunity to remain in the park after the conversion through continuation of the tenancy at generally the same terms as existed prior to conversion, shall not be considered involuntarily displaced.

(b) In all situations where a resident may be involuntarily displaced, the following shall apply:

(1) The project shall comply with the Mobilehome Residency Law, Section 798, et. seq., of the Civil Code.

(2) Where the park is converted pursuant to the Subdivision Map Act, Division 2 of Title 7 of the Government Code, the project shall comply with Section 66427.4 and Section 66427.5 of the Government Code. For the purposes of this section, the term preconversion rent as used within Government Code Section 66427.5 shall mean for public entity acquisitions those rents which were in effect at the time of the initiations of the negotiations; or for resident organization or nonprofit entity acquisitions those rents which were in effect at the time of the initial agreement for sale. For the purpose of calculating allowable rent levels which may be charged pursuant to Government Code Section 66427.5(d)(1), project sponsors may achieve market rents over the permissible four-year period through equal annual increases. The amounts of such equal annual increases are to be calculated based on the difference between the pre-conversion rents and market rents at the time of conversion. To the extent that the rent levels at the end of the fourth year lag behind market rents at that time, rents may be raised to current market levels in the fifth year.

(3) Where the park is converted to a limited-equity housing cooperative pursuant to Section 33007.5 of the Code, the project shall comply with Section 65863.7 of the Government Code.

(4) Where applicable, the project shall provide assistance and payments consistent with the requirements of the Relocation Act Section 7260, et. seq., of the Government Code and the relocation guidelines contained in Chapter 6 (commencing with Section 6000) of Part 1 of this Title.

(5) The project shall comply with all other applicable federal, state and local ordinances, laws or regulations which have requirements in excess of those of this section.

(c) Program funding may not be used to relieve a park owner of any responsibility for mitigating the impacts of a park closure on tenants.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 33007.5, 50406, 50780(b), 50784(h) and 50786(d)(2), Health and Safety Code; Section 798, et. seq., Civil Code; Sections 7260, et. seq., 65863.7 and 66427, Government Code; and Section 6000, et. seq., Title 25, Administrative Code.

HISTORY

1. Amendment of subsection (b)(2), new subsection (c) and amendment of NOTE filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

§ 8022. Transaction Documents.

(a) Applicants shall submit all legal documents related to the conversion or operation of the project for department review and approval.

(b) The department shall prepare and execute standard loan agreements with applicants who receive loan commitments pursuant to Section 8016 (c). The standard agreement shall specify the terms and conditions which govern the loans and shall require the subsequent execution of conversion agreements, regulatory agreements, notes, and other instruments securing the department's interest.

(c) The department may enter into conversion agreements with borrowers who receive conversion loans and may required other entities who have a vested interest in the projects to be a party to the agreements. The conversion agreements shall specify the terms and conditions governing the use of conversion loan funds and the funding of blanket and individual loans.

(d) The department shall enter into regulatory agreements with borrowers who receive conversion or blanket loans and may require other entities who have a vested interest in the projects to be a party to the agreements. The regulatory agreements shall specify the terms and conditions governing the management and operations of the project and the program of assistance for low-income residents. For a qualifying nonprofit housing sponsor or local public entity, a regulatory agreement shall include but not be limited to provisions that regulate occupancy, rents, and park operations.

(e) Borrowers shall execute promissory notes and deeds of trust and/or other instruments securing state loans as required by the department. The form and content of these documents shall ensure that the loans are adequately secured.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 50406, 50406.2 and 50786, Health and Safety Code.

HISTORY

1. Amendment of subsections (b)-(d) filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

§ 8024. Loan Origination and Servicing Agreements.

(a) The department shall require the project applicant to execute loan origination and/or servicing agreements with the loan originator specified by the project applicant and approved by the department. It shall be the responsibility of loan originators or loan servicers, where servicing responsibilities are not performed by the department, to do the following:

(1) accept and review applications for blanket and individual loans and verify information pertaining to the applications;

(2) determine each applicant's eligibility for assistance and his/her credit worthiness and ability to make any required payments;

(3) make recommendations to approve or deny each application, determine the amount of assistance and submit these recommendations to the department for approval;

(4) prepare all loan documents and make necessary arrangements to close the loans;

(5) submit loan packages, all documents determining assistance, including executed loan documents to the department subsequent to the close of escrow;

(6) transmit loan payments to the department according to a schedule established by the department;

(7) notify the department of defaults and delinquencies on program loans and loans which are senior to program loans; and

(8) enforce the terms of the notes and deeds of trust or other instruments securing repayment of the program loans.

(b) Loan originators and loan servicers shall report to the department and provide certifications to the department concerning their compliance with the terms and conditions of the origination and/or servicing agreement. The department shall periodically monitor the activities of loan originators or loan servicers to verify compliance.

(c) Prior to funding any loan the department shall review and approve the loan origination fees and any other fees proposed to be charged by the loan originator or loan servicer. The department may pay such fees to loan originators or loan servicers as provided in the origination and servicing agreement. Such fees shall not exceed the prevailing rate charged by the industry for comparable loans.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 50406, 50406.2 and 50786, Health and Safety Code.

HISTORY

1. Amendment filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

§ 8026. Blanket and Individual Loan Origination.

(a) Low-income residents who apply for individual loans or the benefit of blanket loans shall use forms and follow instructions approved by the department. Such applications shall include, but not be limited to, the following:

(1) evidence of eligibility for an individual loan or the benefit of a blanket loan;

(2) information on the income, debts and credit worthiness of the applicant;

(3) authorization to investigate and verify the information provided by the applicant;

(4) authorization for the loan originator, local public entity and department to share information in order to make decisions concerning action on the application; and

(5) a certification that the information provided by the applicant is true and accurate.

(b) Applications for individual assistance under blanket loans shall consist of separate applications from individual residents who will benefit from the blanket loan.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 50406 and 50786, Health and Safety Code.

HISTORY

1. Amendment filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

§ 8028. Disbursement of Loan Funds.

(a) The department shall disburse funds pursuant to the terms and conditions specified in the transaction documents with the departments.

(1) The department shall condition the disbursement of funds on the execution and recordation of those documents necessary to secure its financial and statutory interests, which may include, but are not limited to: promissory notes, deeds of trust, or regulatory agreements.

(2) The department may disburse funds directly to parties other than to signatories to the standard agreement if payments to those parties are specified in the standard agreement.

(3) The department may disburse funds prior to the borrower satisfying all of the conditions of Section 50786(d) of the Code if the funds will be held by a local public entity, mortgage lender or escrow company until conditions are met.

(4) Advance payments not exceeding 25% of the loan amount may be made if the department determines they are necessary to complete the project and if the State's interest and security are met.

(b) The department shall establish presale requirements for each project which must be met prior to the closing for a blanket or individual loans. The presale requirements may include additional requirements such as a higher, minimum percentage of sales if needed to protect the security of program loans. Where program loan funds are being used to purchase individual ownership interests, the minimum percentage of 67

percent (67%) of occupied spaces may be increased to 67 percent (67%) of all spaces in the park. Sales, for the purpose of calculating this percentage, shall include previously consummated sales, sales to be financed with program loans that are ready to close, and sales with other financing that will be consummated simultaneously with the closing of the program loans.

(c) The department may fund blanket loans and individual loans in escrow from the repayment of conversion loans for the project. The department may provide partial releases from the deed of trust and the regulatory agreement as individual loans are funded and recorded.

NOTE: Authority cited: Sections 50406(n) and 50786, Health and Safety Code. Reference: Sections 50406, 50406.5 and 50786, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

§ 8030. Monitoring and Reporting.

(a) The department shall, directly or through a third party, monitor the activities of borrowers and the progress of projects for the following purposes:

(1) to verify compliance with the terms and conditions of contracts and agreements;

(2) to ensure the success of the project; and

(3) to protect the security of program loans.

(b) The department shall require borrowers to provide periodic reports using a department-approved format which will provide the information necessary to fulfill the requirement of Section 50786 of the Code and all other requirements of the program.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Sections 50406 and 50786, Health and Safety Code; and Section 7938, Title 25, Administrative Code.

HISTORY

1. Amendment of section and NOTE filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

§ 8032. Defaults, Workouts and Foreclosures.

(a) In the event of a breach or violation by the borrower of any of the provisions of the standard agreement, the regulatory agreement, the promissory note, or the deed of trust, or any other agreement pertaining or securing the MPROP loan, the department may give written notice to the borrower to cure the breach or violation within a period of not less than 30 days. If the breach or violation is not cured to the satisfaction of the department within the specified time period, the department, at its option, may declare a default under the relevant documents and may seek legal remedies for the default including the following:

(1) The department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amount in full, the department may proceed with a foreclosure in accordance with the provisions of the deed of trust and state law regarding foreclosures.

(2) The department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to operate the park in accordance with program requirements.

(3) The department may seek such other remedies as may be available under the relevant agreement or any law.

(b) In the event that the breach or violation involves charging rent or other charges in excess of those permitted under the regulatory agreement, the department may demand the return or compensation of such excess rents or other charges to the affected households. In any action to enforce the provisions of the regulatory agreement, the department may seek as additional remedy, the repayment of such overcharges.

(c) Loan commitments may be cancelled by the department under any of the following conditions:

(1) the objectives and requirements of the program cannot be met;

(2) implementation cannot proceed in a timely fashion in accordance with the approved plans and schedules;

(3) special conditions have not been fulfilled within required time periods;

(4) the conversion has not commenced or been completed within three years of the date of loan approval;

(5) there has been a material change in the principals or management of the sponsor or project, which was not approved by the department.

Upon receipt of a notice of intent to cancel the loan from the department, the borrower shall have the right to appeal to the Director.

(d) The department may use amounts available in the fund for the purpose of curing, or avoiding, defaults on the terms of any loan or other obligation which jeopardize the fiscal integrity of the park or the integrity of any individual interest in a park. Such defaults include defaults or impending defaults in payments on mortgages, failures to pay taxes, or failures to maintain insurance or required operating reserves. The payment or advance of funds by the department pursuant to this subdivision shall be solely within the discretion of the department. All funds so advanced shall be part of and added to the loan and, upon demand, due and payable to the department.

Where it becomes necessary to use the fund for the purpose of assisting a project to avoid threatened defaults or foreclosures, the department shall take those actions necessary, including but not limited to, foreclosure or forced sale of the project property, to prevent similar occurrences and insure compliance with the terms of the applicable agreements.

NOTE: Authority cited: Sections 50406(n) and 50786(a), Health and Safety Code. Reference: Section 50406, Health and Safety Code.

HISTORY

1. Amendment of section heading, repealer and new section, and amendment of NOTE filed 5-11-2001; operative 5-11-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 19).

Subchapter 14. California Housing Rehabilitation Program for Owner-Occupied Housing

Article 1. General

§ 8040. Purpose and Scope.

(a) This subchapter establishes the California Housing Rehabilitation Program for Owner-Occupied Housing and implements and interprets chapter 6.5 (commencing with section 50660) of part 2 of division 31 of the Health and Safety Code, and chapter 12.45 (commencing with section 8878.15) of division 1 of title 2 of the Government Code.

(b) These regulations establish procedures for the award, disbursement, management and repayment of loans and establish policies and procedures for use of these funds to rehabilitate owner-occupied housing.

(c) Notwithstanding section 7670(c) of this part, until July 1, 1990, unless extended by statute, loans entered into after the effective date of this subchapter from all deferred payment loan programs for owner-occupant property authorized by chapter 6.5 (commencing with section 50660) of part 2 of division 31 of the Health and Safety Code, except the programs specified in Health and Safety Code sections 50662.5 and 50662.7, shall be governed by this subchapter. For loans on owner-occupied property, entered into after the effective date of this subchapter and until July 1, 1990 unless extended by statute, this subchapter supersedes the provisions of subchapter 5.5 (commencing with section 7450) of chapter 7 of this part.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50660, 50662.5, 50668.5, and 50671, Health and Safety Code; and Section 8878.21, Government Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.

2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.
3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8–27–90 order filed 12–21–90 as an emergency; operative 12–21–90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4–22–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsections (a) and (c) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

§ 8041. Definitions.

In addition to the definitions found in chapter 2 (commencing with section 50050), of part 1 of division 31 of the Health and Safety Code and subchapter 2 (commencing with section 6910) of chapter 6.5 of this title, the following definitions shall apply to this subchapter. In the event of a conflict between definitions, these definitions prevail for the purposes of this subchapter:

(a) "Ability to afford" means that housing costs as defined in section 6920 of this title do not exceed 30 percent of the gross income of the borrower.

(b) "Account" means the special account in the Housing Rehabilitation Loan Fund established by section 8878.21 of the Government Code.

(c) "After–rehabilitation value" means estimated fair market value of the property including completed rehabilitation work.

(d) "Applicant" is a local entity which submits an application to the department to operate a local program.

(e) "Borrower" means an owner–occupant receiving a deferred payment loan made pursuant to this subchapter.

(f) "CHRP–O" is the acronym used to describe the California Housing Rehabilitation Program for Owner–Occupied Housing.

(g) "Deferred payment loan" means a loan from the account made pursuant to this subchapter.

(h) "Department" means the same as defined in section 50064 of the Health and Safety Code.

(i) "Director" means the Director of the Department of Housing and Community Development.

(j) "Elderly" means the same as defined in section 50067 of the Health and Safety Code.

(k) "Gross income" means all income as defined in section 6914 of this title.

(*l*) "Incipient code violation" means a condition exists in the property which, at the time of the initial property inspection, is deteriorating at such a rate that it will result in a substandard condition within two years of the inspection.

(m) "Leverage" means combining other funding sources with Program funds when originating individual deferred payment loans.

(n) "Liquidated damages" means an amount agreed to by the contractor and local entity to be considered full damages if the contractor should fail to fulfill the terms of the construction contract.

(o) "Loan–to–value ratio" means the ratio between the amount of a mortgage loan and the value of the real estate securing it.

(p) "Local entity" means a local public entity as defined in section 50079 of the Health and Safety Code or a nonprofit corporation as defined in section 50091 of the Health and Safety Code.

(q) "Local program" means a rehabilitation loan program operated by a local entity to provide deferred payment loans for the rehabilitation of property pursuant to the provisions of this subchapter.

(r) "Lower–income household" means the same as defined in section 50079.5 of the Health and Safety Code.

(s) "Overcrowding" means the condition of a dwelling unit that does not meet the space and occupancy standards as set forth in section 503 of the "1988 Uniform Housing Code," issued by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601.

(t) "Program" means the California Housing Rehabilitation Program for Owner–Occupied Housing.

(u) "Property" means a dwelling unit constructed pursuant to the requirements of State Housing Law (California Health and Safety Code division 13, part 1.5, commencing with section 17910), occupied by an eligible borrower as his or her principal place of residence.

(v) "Rehabilitation" means repairs to substandard owner–occupied property necessary to meet rehabilitation standards or to correct defects causing it to be a substandard building pursuant to section 17920.3 of the Health and Safety Code, and improvements, including room additions and handicapped accessibility work, financed pursuant to this subchapter.

(w) "Room addition" means the construction of additional square footage on the property necessary to abate overcrowding. "Room addition" also means the construction of an additional bathroom where the absence of such a bathroom results in a substandard condition as defined in section 17920.3(a)(1) of the Health and Safety Code.

(x) "Rural area" means the same as defined in section 50101 of the Health and Safety Code.

(y) "Very low–income household" means persons or families as defined in section 50105 of the Health and Safety Code.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 17910, 17920.3, 50052.5, 50064, 50067, 50079, 50079.5, 50101, 50105, 50462, 50660, 50662, 50663, 50668.5, 50668.5(a), 50668.5(b), 50669(a) and 50670, Health and Safety Code; and Section 8878.21, Government Code.

HISTORY

1. New section filed 11–30–89 as an emergency; operative 11–30–89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–30–90.
2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.
3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8–27–90 order filed 12–21–90 as an emergency; operative 12–21–90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4–22–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsections (f) and (i) (*l*), (m), (n), (o), (u), and (w) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

Article 2. Program Requirements

§ 8042. Eligible Applicant.

(a) In order to be certified as eligible for funding, an applicant shall demonstrate to the department's satisfaction that it possesses:

(1) the capability to develop, implement, and operate an owner–occupied housing rehabilitation program; and

(2) a knowledge of the rehabilitation needs of properties, as defined for use by this program, in its area of service.

(b) The demonstration required by subdivision (a)(1) of this section shall occur through documentation acceptable to the department of at least one of the following:

(1) prior development, implementation, and operation of a housing rehabilitation program;

(2) employees with demonstrated ability or experience with the development, implementation, and operation of a housing rehabilitation program. Such demonstration may include a board member or members of a nonprofit corporation having the expertise specified in this subdivision, provided the board member or members shall have an active role in the administration of the local program; or

(3) a contract, or evidence of entering into a contract, with a consultant or consultants having demonstrated ability or experience for the purpose of assisting with the implementation and operation of the local program.

(c) The demonstration required by this section shall occur through documentation submitted as a part of the application made pursuant to section 8054 of this subchapter.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Section 50668.5(a), Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section filed 7-26-90 as an emergency; operative 7-26-90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11-23-90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsections (a), (b) and (c) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

§ 8043. Eligible Borrower.

An eligible borrower shall:

(a) be a lower-income household;

(b) own and occupy as a principal residence the property which is to be rehabilitated; and

(c) not previously have received a deferred payment loan from the account.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50660, 50668.5 and 50668.5(b), Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section filed 7-26-90 as an emergency; operative 7-26-90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11-23-90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsection (c) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

§ 8044. Eligible Use of Funds.

(a) Proceeds from the account for deferred payment loans to borrowers may be used only for eligible costs that are incurred in the rehabilitation of the property as set forth in this section. In addition, eligible costs must be necessary and consistent with the lowest reasonable cost in the area. In addition to eligible costs set forth in statute, eligible costs include, but are not limited to, the following:

(1) costs of rehabilitation of the property;

(2) costs of room additions when other rehabilitation work is being performed;

(3) costs of improvements necessary to ensure accessibility of the property to physically handicapped borrowers or dependents occupying the property, when other rehabilitation work is being performed;

(4) costs of improvements required to correct unsafe, unhealthy, or unsanitary conditions, including general property improvements when such improvements are necessary or integral to the rehabilitation work;

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(5) costs incurred in originating the loan including the following:

(A) title insurance;

(B) credit reports;

(C) appraisal reports;

(D) first year insurance premiums;

(E) recording fees; and

(F) property tax and title monitoring service fees.

(6) costs of building permits and other related government fees; and

(7) costs of architectural, engineering, and other consultant services which are directly related to the rehabilitation of the property, which may include the costs of an environmental assessment if such an assessment is required as a condition of the loan by the department.

(b) Payments may be made to local entities for administrative expenses, which shall be in the form of grants from the department pursuant to section 8059. Administrative grant funds shall only be used for eligible costs that are incurred in the administration of a local program and in accordance with the proposed budget submitted with the application pursuant to section 8054. Administrative grants shall be a maximum of $2,500.00 or 20 percent of each deferred payment loan amount, whichever is less. Eligible categories of cost include:

(1) personal services, including the following:

(A) staff salaries, wages and benefits; and

(B) contract services which are directly related to the administration of the local program.

(2) operating expenses and office equipment, including the following:

(A) office supplies, printing and copying, and telephone charges;

(B) travel;

(C) office rent and utilities related to the local program;

(D) rented office equipment; and

(E) insurance and fidelity bonds.

(3) construction fund disbursement fees; and

(4) escrow fees.

(c) All local entities shall be eligible to receive grants for administrative costs of operating a local program. Administrative grants will be paid on a loan–by–loan basis in the following manner:

(1) Local entities that are not leveraging deferred payment loan funds with other funding sources shall receive their actual loan processing cost or 20 percent of each deferred payment loan amount, up to $2,500.00.

(2) Local entities that are leveraging deferred payment loan funds with other funding sources which do not provide administrative funding shall receive their actual loan processing cost or 20 percent of each deferred payment loan amount, up to $2,500.00.

(3) Local entities that are leveraging deferred payment loan funds with other funding sources which do provide administrative funding shall receive the difference between the amount received through the other financing source for their actual loan processing cost and the deferred payment loan or 20 percent of each deferred payment loan amount, up to $2,500.00.

(4) Local entities that are leveraging deferred payment loan funds with Entitlement Community Development Block Grant funds shall receive no administrative funding from the program for those loans in which deferred payment funds are leveraged with Entitlement Community Development Block Grant funds.

(d) Local entities requesting administrative grant funding shall demonstrate to the department's satisfaction the administrative funding received from other financing sources is insufficient to implement and assure compliance with the program. Such demonstration shall include a certification from the local entity regarding the need for administrative funds.

(e) Local entities shall not substitute fund commitments from the account for other available local funds. This restriction applies to the local entity's overall rehabilitation activities, rather than on a loan–by–loan basis.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50661, 50662, 50664 and 50668.5(b), Health and Safety Code.

HISTORY

1. New section filed 11–30–89 as an emergency; operative 11–30–89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–30–90.
2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.
3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8–27–90 order filed 12–21–90 as an emergency; operative 12–21–90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4–22–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsections (a), (b), (c), and (d) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

§ 8045. Local Program Administration.

(a) The local entity shall implement the local program and be responsible for the following activities:

(1) marketing the local program in a manner which ensures that the goals and timeframes stated in the Standard Agreement pursuant to section 8056(a) are met;

(2) originating, packaging, and closing deferred payment loans in accordance with program requirements;

(3) approval of deferred payment loans upon certification by the department pursuant to section 8057(f);

(4) completing the construction requirements specified pursuant to section 8046;

(5) disbursing funds on behalf of borrowers during construction;

(6) maintaining complete and accurate records of all deferred payment loan disbursements and administrative grant expenditures to ensure adherence to proper accounting procedures for the deferred payment loan and administrative grant funds, which may be verified by the department and may be subject to a fiscal audit;

(7) complying with reporting requirements pursuant to section 8060; and

(8) meeting all other local entity requirements set forth in this subchapter.

(b) Local entities may employ consultants or other entities to perform any of the requirements specified in subdivision (a) of this section. The consultant or other entities designated to implement all or any portion of the program shall meet the standard specified in section 8042(a)(1). The local entity shall be responsible for ensuring that the actions of the consultants or other entities are in compliance with the requirements of this subchapter.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Section 50668.5(a), Health and Safety Code.

HISTORY

1. New section filed 11–30–89 as an emergency; operative 11–30–89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–30–90.
2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.
3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be trans-

mitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.

5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8–27–90 order filed 12–21–90 as an emergency; operative 12–21–90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4–22–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsection (b) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

§ 8046. Construction Requirements.

(a) The local entity shall determine the rehabilitation work to be performed on the property by conducting an initial property inspection. Upon such inspection, the local entity shall:

(1) prepare a work write–up which accurately describes the existing conditions and the necessary repairs and improvements consistent with the rehabilitation standards adopted by the local entity and approved by the department. The work write–up shall indicate which items are code violations, incipient code violations, handicapped accessibility improvements, and general property improvements; and

(2) prepare a cost estimate for the rehabilitation work, building permits, government fees and the costs of architectural and engineering services directly related to the rehabilitation work.

(b) The local entity shall ensure that the rehabilitation work funded pursuant to this subchapter shall be performed in a competent, professional manner at the lowest reasonable cost consistent with current market conditions. Except as outlined in subsection (g), the local entity shall solicit, at a minimum, three written bids based on a bid package distributed to potential contractors. Such bid package shall include:

(1) the work write–up which details the rehabilitation performance specifications;

(2) bid instructions which describe the local program requirements for construction;

(3) a bid proposal form which incorporates the work write–up; and

(4) a sample construction contract which has been approved by the department.

(c) The local entity shall evaluate submitted bids in relation to its cost estimate. If three written bids are not received, or the bids received are higher than its cost estimates, the local entity shall include an explanation in the deferred payment loan file documenting the process employed to determine the reasonableness of costs. The local entity shall review all bids with the borrower, and the borrower shall select a bid which would result in the work being performed in a competent, professional manner at the lowest reasonable cost consistent with current market conditions and the local entity's cost estimate.

(d) The local entity may include a contingency amount, not to exceed 10 percent of the selected bid amount or the maximum loan amount established pursuant to section 8048(a), to be used for unforeseen costs incurred in order to complete the rehabilitation as defined in this subchapter. Any unused contingency funds shall be returned to the department for deposit to the account, and shall be treated as a borrower payment to the deferred payment loan.

(e) The local entity shall ensure that all general contractors and subcontractors selected by the borrower are licensed by the California State Contractors Licensing Board and that they maintain Worker's Compensation and Employer's Liability insurance to the extent required by State law. The contractor selected shall complete the work in accordance with a construction contract executed between the contractor and the borrower and approved by the local entity. The construction contract shall, at a minimum, contain provisions which:

(1) require that the contractor complete the work in accordance with the contractor's bid, work plans and specifications, and applicable local, State, and Federal laws, regulations, and building codes;

(2) require the contractor to proceed with and complete the work in accordance with the approved work schedule;

(3) specify a total contract price consistent with the approved contractor's bid;

(4) provide for a method of payment to the contractor consistent with program requirements which may include progress payments and payment retentions;

(5) provide for a contractor contingency amount, if any;

(6) permit the local entity and the department and their designated agents and employees the right to inspect the property and all books, records and documents maintained by the contractor in connection with the work;

(7) obligate the contractor to warrant the work for a period of not less than one year;

(8) require that the contractor provide all lien releases and pay all amounts when due for labor, materials, supplies and equipment provided for completing the work; and

(9) provide for liquidated damages.

(f) The local entity shall monitor construction for compliance with the construction contract and program requirements, and establish practices to ensure that payments to the contractor are properly expended by, or on behalf of, the borrower. Such practices shall include:

(1) conducting on–site inspections of the rehabilitation work; and

(2) preparing progress inspection reports which authorize the issuance of payments to borrowers and contractors.

(g) The borrower may perform all or a part of the labor, or provide materials, necessary to rehabilitate his or her property if all of the following conditions are met:

(1) the cost of the rehabilitation work for the portion to be performed by the borrower is less than 90 percent of the local entity's cost estimate, exclusive of profit and overhead for the general contractor;

(2) proceeds from the deferred payment loan shall not be used to pay for materials for which no paid receipt is provided or for any borrower or non–contracted worker's labor;

(3) the borrower has entered into a written contract pursuant to subdivision (e) of this section with any subcontractor retained by the borrower; and

(4) the local entity has demonstrated to the department that it has the capacity to manage and supervise rehabilitation projects utilizing borrower labor or that it will contract with a consultant or other entity that has demonstrated the capability to operate borrower–performed rehabilitation activities. Prior to the approval of the first deferred payment loan utilizing borrower–performed rehabilitation activities, the local entity shall submit the following to the department for approval of its ability to ensure that the requirements of this program will be met when borrower–performed rehabilitation is involved:

(A) the extent of the local entity's past involvement in borrower–performed rehabilitation activities;

(B) evidence of local entity administrative funding in an amount adequate to ensure proper management of borrower–performed rehabilitation activities;

(C) the criteria used in determining a borrower's ability to perform rehabilitation work;

(D) the accounting system used for purchasing materials, disbursing loan funds, and conducting inspections of the rehabilitation work;

(E) provisions for completing the rehabilitation if a borrower fails to complete the project.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50668(a), 50668.5 and 50668.5(b), Health and Safety Code.

HISTORY

1. New section filed 11–30–89 as an emergency; operative 11–30–89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–30–90.
2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.

3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8–27–90 order filed 12–21–90 as an emergency; operative 12–21–90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4–22–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsections (b), (c), (d), (e), and (g) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

Article 3. Deferred Payment Loan Requirements

§ 8047. Term of Loan.

(a) The initial loan term of a deferred payment loan to non–elderly borrowers shall be five years. In the case of elderly borrowers, deferred payment loans shall be due upon transfer of title to the property. Deferred payment loans to both elderly and non–elderly borrowers shall be due and payable if the borrower no longer occupies the property as his or her principal residence for reasons other than medical treatment or disability which require a temporary alternate residence.

(b) The department shall allow additional five–year terms to a non–elderly borrower, based on provided evidence which demonstrates that:

(1) the title to the property has not been sold or transferred except to the borrower's spouse or assumed by an eligible borrower as allowed in section 8051(a) and (d);

(2) the borrower continues to occupy the property as a principal residence; and

(3) the borrower's income is such that the deferred payment loan could not be repaid by refinancing from other sources without the borrower exceeding the ability to afford his or her housing costs. Such evidence may include income verifications and written rejections of refinancing applications from lending institutions which provide the reasons for rejection.

(c) A borrower seeking an extension shall do the following:

(1) submit a written request to the department for extension of the deferred payment loan;

(2) provide the evidence required in subdivision (b) of this section; and

(3) execute the documents required in section 8056(c).

(d) A loan extension shall be conditioned on amortized payments made by the borrower pursuant to section 8049(d).

(e) If a non–elderly borrower becomes elderly during the term of the deferred payment loan, the terms and conditions specified for elderly borrowers shall apply.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50660 and 50662, Health and Safety Code.

HISTORY

1. New section filed 11–30–89 as an emergency; operative 11–30–89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–30–90.
2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.
3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8–27–90 order filed 12–21–90 as an emergency; operative 12–21–90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4–22–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsections (a), (b), (c), and (d) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

§ 8048. Maximum Loan Amounts.

(a) The maximum amount of a deferred payment loan to a borrower shall be as follows:

(1) $20,000; or

(2) $30,000, when the rehabilitation involves one or more room additions, except that the total cost of room additions shall not exceed $10,000.

(b) Deferred payment loans shall be limited to the amount necessary to cover eligible costs which cannot otherwise be financed by other funds unless the local entity determines that:

the payment on, or costs of administration and processing of, a loan from other sources would cause the borrower to exceed the ability to afford his or her housing costs.

(c) Upon request by the local entity to the department, the maximum loan amounts established pursuant to subdivision (a) of this section shall be increased if the department determines that all of the following circumstances exist:

(1) the estimated rehabilitation costs are consistent with the lowest reasonable costs of similar projects in the same area meeting minimum rehabilitation standards and local building and land use requirements;

(2) an increase is necessary to correct health and safety defects or to meet handicapped accessibility standards; and

(3) the local entity has documented that no other funds are available for the rehabilitation work.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50010(b)(3), 50662, 50668.5(a) and 50668.5(b), Health and Safety Code.

HISTORY

1. New section filed 11–30–89 as an emergency; operative 11–30–89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–30–90.
2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.
3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8–27–90 order filed 12–21–90 as an emergency; operative 12–21–90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4–22–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsection (b) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

§ 8049. Interest Rate and Loan Repayments.

(a) Deferred payment loans shall bear simple interest of three percent per annum on the unpaid principal balance. Interest shall accrue on the deferred payment loan from the date on which the construction is completed and shall continue to accrue at such a rate until the deferred payment loan principal and interest are paid in full.

(b) The total amount of outstanding principal and interest shall be due and payable in full at the end of the loan term. A borrower may repay the entire deferred payment loan amount at any time without penalty.

(c) Upon request by the borrower, the department may approve a voluntary prepayment plan, either at loan closing or any time thereafter. The plan may allow for the periodic payment of interest, or principal and interest, prior to the end of the loan term, unless the administration and processing of such prepayments would exceed the department's processing cost. At the request of the borrower, the plan may be revised or cancelled without penalty.

(d) If the deferred payment loan is extended by the department pursuant to section 8047(b), the borrower shall be required to make amortized payments of interest, or principal and interest to the extent that:

(1) amortized payments when combined with other housing payments may equal, but not exceed the borrower's ability to afford his or her housing costs; or

(2) the administration and processing of such payments would not exceed the department's processing cost.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50662 and 50668.5(c), Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section filed 7-26-90 as an emergency; operative 7-26-90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11-23-90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsections (a), (c) and (d) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

§ 8050. Loan-to-Value Limits.

(a) The loan-to-value ratio of a deferred payment loan shall not exceed 90 percent of the value of the borrower's property calculated as follows:

(1) The loan-to-value ratio shall be calculated using: (a) the County Tax Assessor's current valuation of the property and (b) all indebtedness which will be senior to the deferred payment loan after the rehabilitation, plus the proposed deferred payment loan (hereinafter referred to as the "total indebtedness"). If the loan-to-value ratio exceeds 90 percent, then the loan-to-value ratio shall be calculated as set forth in (2) below.

(2) The loan-to-value ratio shall be calculated using: (a) the current estimated value of the property as determined by qualified local entity staff who have been given prior approval by the department to conduct property value analyses and (b) the total indebtedness. If the loan-to-value ratio exceeds 90 percent, then the loan-to-value ratio shall be calculated as set forth in (3) below. Any such staff analyses shall be accompanied by data showing current comparable sales in the market area.

(3) The loan-to-value ratio shall be calculated using: (a) a fee appraisal of the after rehabilitation value of the property and (b) only those liens which will be senior to the deferred payment loan, excluding senior citizen property tax deferral liens, plus the deferred payment loan. This loan-to-value ratio shall not exceed 90 percent of the after-rehabilitation value of the borrower's property. The appraisal shall be undertaken at the borrower's expense. The appraisal may be included as an eligible cost in the borrower's deferred payment loan. The appraisal shall take into consideration the estimated value of the rehabilitation to be completed on the property and shall:

(A) be prepared by an independent appraiser who:

(1.) has the knowledge and experience necessary to appraise residential property competently;

(2.) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal; and

(3.) in reporting the results of the appraisal, communicates such analysis, opinion, and conclusion in a manner that is not misleading as to the true value and condition of the property.

(B) utilize all of the following methods to determine value:

(1.) sales of comparable properties; and

(C) include the pre-rehabilitation value.

(b) The department shall not accept any appraisal that does not conform to the provisions of subdivision (a)(3).

(c) Upon request by a local entity, the department may allow a loan-to-value ratio greater than 90 percent, but less than 100 percent as calculated pursuant to subdivision (a)(3), if the local entity provides evidence acceptable to the department that the following exist:

(1) rehabilitation which requires a deferred payment loan amount which would cause the loan-to-value ratio as calculated pursuant to subdivision(a)(3) to exceed 90 percent and

(2) the borrower has the ability to afford all payment obligations.

(d) If the local entity is lending additional funds for t he rehabilitation, regardless of the source, the local entity loans shall be recorded in a subordinate position to the deferred payment loan.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Section 50662, Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section filed 7-26-90 as an emergency; operative 7-26-90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11-23-90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsections (a), (b), (c) and (d) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

§ 8051. Sales, Transfers, Encumbrances, and Assumptions.

(a) Deferred payment loans shall be due and repaid upon sale, conveyance, or transfer of the property or any interest therein, except in the case of the transfer of the property to a borrower's spouse as a consequence of marriage, dissolution of marriage, death, or unless assumed by an eligible borrower.

(b) The borrower shall not encumber, pledge, or hypothecate the property or any interest therein or portion thereof with liens which are recorded in a senior position to that of the deferred payment loan without the prior written approval of the department. The borrower shall cure any unapproved lien, charge, or assessment against the property as required

by the department pursuant to section 8052(b). The department may subordinate the deferred payment loan and permit refinancing of existing liens or additional financing secured by the property to the extent that such financing does not exceed the loan-to-value ratio pursuant to section 8050(a) and (c).

(c) When a deferred payment loan is repaid, the loan agreement required pursuant to section 8056(b) shall be terminated, the deed of trust shall be reconveyed, and any other security documents shall be terminated.

(d) With prior approval of the department, the deferred payment loan may be assumed by a borrower who meets the eligibility requirements and who shall be subject to the requirements of this subchapter.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Section 50662, Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section filed 7-26-90 as an emergency; operative 7-26-90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11-23-90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
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7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsections (a), (b), and (d) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

§ 8052. Defaults on Borrower Loans.

(a) If a borrower or successor-in-interest breaches or violates any provision of (1) the loan agreement entered into pursuant to section 8056 (b), (2) the promissory note, (3) the deed of trust, (4) any other agreement pertaining to the deferred payment loan, or (5) these regulations, the department shall give written notice to the borrower to cure the breach or violation within a period of not less than 30 days from such notice. If the breach or violation is not cured to the satisfaction of the department within the specified time period, the department, at its option, may declare a default under the relevant document and seek legal remedies for the default which shall include the following:

(1) The department shall accelerate all amounts, including outstanding principal and interest, due under the deferred payment loan and demand immediate repayment. Upon a failure to repay such accelerated amount in full, the department shall proceed with a foreclosure in accordance with the provisions of the deed of trust; or

(2) The department may seek such other remedies as may be available under the relevant agreement or any law.

(b) The department may use any amounts available in the default reserve subaccount established pursuant to section 8062(a) for the purpose of curing or avoiding a borrower's default on the terms of the loan which jeopardize the department's security in the property.

(1) The payment or advance of funds from the default reserve subaccount to cure or avoid a borrower's default on the terms of a loan shall be solely within the discretion of the department. No borrower shall be entitled to payment of funds from the default reserve subaccount.

(2) All funds so advanced on behalf of the borrower shall become part of the deferred payment loan and, upon demand, due and payable to the department.

(3) If funds from the default reserve subaccount are used to assist a borrower to avoid a threatened default or foreclosure, the department shall take those actions necessary to prevent similar occurrences and to insure compliance with the terms of the applicable agreements. Such actions by the department shall include foreclosure or forced sale of the borrower's property.

NOTE: Authority cited: Section 50668.5 (g), Health and Safety Code. Reference: Section 50668.5 (b), Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsections (a) and (b) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

Article 4. Application for Funding Procedures

§ 8053. Application Process.

(a) The department shall issue a Notice of Funding Availability (NOFA) which specifies the total amount of funds available under the NOFA, the application requirements, the allocation of rating points, and the general terms and conditions of funding commitments. Applications in response to each NOFA will be accepted on a continuous basis and ranked at least quarterly.

(b) The maximum amount of funds available to a local entity under each NOFA shall be specified in the NOFA.

(c) The department shall process an application in accordance with the following schedule:

(1) Within 30 calendar days of receipt of an application, the department shall provide the applicant with written notice as to whether the application is complete pursuant to section 8054. If the application is not complete, the notice shall specify the information or documentation necessary to complete the application.

(2) Within 45 calendar days of notification that the application is complete, the department shall provide the applicant with written notice whether the application has qualified to be rated pursuant to section 8055 (c). If the application does not qualify for rating, the notice shall provide an explanation of the reasons for disqualification.

(3) Within 45 calendar days of providing notice that an application qualifies for rating, the department shall provide the local entity with written notice whether an application will be considered for funding and, if considered for funding, the scheduled date for that consideration. If an application is not considered for funding, the local entity shall be notified in writing, including an explanation of the rating and the reasons for denial.

(4) Within 10 working days after a local program has been considered for funding, the department shall provide the local entity with written notification of the decision. Local programs selected for funding shall be approved at loan amounts, terms and conditions specified by the department.

(d) The department shall allocate not less than 20 percent of the monies from the program to local programs in rural areas. If necessary the department may:

(1) issue a special NOFA for rural local programs; or

(2) reserve a portion of funds specified in each NOFA for rural local programs.

NOTE: Authority cited: Section 50668.5 (g), Health and Safety Code. Reference: Sections 50661 and 50668.5 (a), Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsection (c) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

§ 8054. Application Requirements.

(a) Applications for local program fund commitments shall be made on form HCD O-001, California Housing Rehabilitation Program for Owner-Occupied Housing (CHRP-O), Local Program Application, dated 8/90 as set forth in subdivision (c) of this section. This form is provided by the department.

(b) The local entity may apply for additional funds from the program once all previously committed deferred payment loan funds have been expended. Requests for additional fund commitments shall be made on form HCD O-001, California Housing Rehabilitation Program for Owner-Occupied Housing (CHRP-O), Local program Application, dated 8/90 as set forth in subdivision(c) of this section. This form is provided by the department. Applications for additional fund commitments shall be selected pursuant to section 8055 of this subchapter.

(c) Copy of form HCD O-001, California Housing Rehabilitation Program for Owner-Occupied Housing (CHRP-O), Local Program Application, dated 8/90.

HCD O-001, 8/90

CALIFORNIA HOUSING REHABILITATION PROGRAM
FOR OWNER-OCCUPIED HOUSING (CHRP-O)

LOCAL PROGRAM APPLICATION

California Department of Housing and Community Development
Division of Community Affairs, CHRP-O
P.O. Box 952054, 1800 Third Street, Sacramento, California 94252-2054
(916) 323-3178

This application, if approved for funding, will be a part of your Standard Agreement with the department. All sections of this application, including Attachments and Exhibits must be complete and accurate.

PLEASE NOTE: When applying for additional funds, only those items which differ from the original application need be
completed.

If there are any questions about the application, the process employed when applying for additional funding, or if you require technical assistance, please contact program staff at the above address or phone number.

SECTION I: APPLICATION SUMMARY

A. NAME OF APPLICANT: _____

B. APPLICANT ADDRESS: _____

C. CHIEF EXECUTIVE NAME AND TITLE: _____

D. CONTACT PERSON AND TITLE: _____

E. TELEPHONE NUMBER: ( ) _____ FAX NUMBER: ( ) _____

F. LOCATION OF LOCAL PROGRAM: _____

G. AMOUNT OF FUNDS REQUESTED: LOAN FUNDS: $ _____

GRANT FUNDS: $ _____
(UP TO 20% OF LOAN FUNDS)

H. ESTIMATED NUMBER OF HOUSEHOLDS TO RECEIVE CHRP-O LOANS: _____

I. ESTIMATED TOTAL COST OF REHABILITATION PER HOUSEHOLD: _____

J. ESTIMATED AMOUNT OF CHRP-O FUNDS PER HOUSEHOLD: _____

SECTION II: APPLICANT INFORMATION

A. APPLICANT

1. The Applicant is a (check one):

[ ] City
[ ] County
[ ] Nonprofit Corporation
[ ] Redevelopment Agency
[ ] Indian Reservation or Rancheria
[ ] Housing Authority
[ ] Other (specify)

2. Years organization has been involved in housing programs:

3. If applicant is a nonprofit corporation, attach IRS status, a copy of the corporation's most current tax return, and a statement of assets and liabilities. Label as "ATTACHMENT 1. NONPROFIT CORPORATION DOCUMENTS AND FINANCIALS."

4. Attach a description of the applicant's experience and administrative skills for implementing a local housing rehabilitation program, using the following format:

Sources of Funds	Type of Program	Property Types	Dates	No. of Units	Funds Expended

Provide references from funding sources with whom you have worked in the programs noted above. Include names, addresses and phone numbers of contacts. Label as "ATTACHMENT 2. APPLICANT QUALIFICATIONS."

B. SERVICE PROVIDERS (If you are retaining the services of a consultant, please provide the information below. If the services of more than one consultant are being used, please attach additional sheets.)

Consultant Name: _____

a. Address: _____

b. Phone number: (___) _____ Fax number: (___) _____

c. Contact Person: _____ Title: _____

Attach a summary of each consultant's experience in housing rehabilitation and qualifications for providing the services for which you will contract and a copy of a letter of intent executed by the consultant. Contracted services may include loan underwriting and origination services; construction services for inspections, work write-ups, cost estimates; use of escrows and fund control services; and attorney fees. Label as "ATTACHMENT 3. CONSULTANT QUALIFICATIONS AND COMMITMENT."

SECTION III. LOCAL PROGRAM SUMMARY

A. GENERAL DESCRIPTION

1. Provide a map of the jurisdiction in which the CHRP-O program will operate, showing the location of the proposed service area or areas in which the program will be concentrated. Label as "ATTACHMENT 4. MAP."

2. Indicate if there are any special characteristics of the proposed local program area or areas of service which would have an adverse impact on the value of properties in the area, thereby affecting the security of the State's loans. (These would include any adverse environmental conditions, including, but not limited to, the presence of toxic wastes.) Label as "ATTACHMENT 5. LOCAL PROGRAM SERVICE AREA: SPECIAL CHARACTERISTICS."

3. Provide the following information regarding performance goals for all units to be rehabilitated using CHRP-O funds:

a. Indicate the estimated total number of owner-occupied properties to be rehabilitated: _____ 100%

b. Of these, indicate the estimated number and percentage that will be very low-income households: _____ %

c. Of these, indicate the estimated number and percentage that will have three or occupied bymore bedrooms: _____ %

Indicate the reasons that the numbers stated above were chosen. (These could include reasons such as previous program experience, a demonstrated need for rehabilitation of three-bedroom units, or a large proportion of very low-income households in the proposed local program area or areas of service.) Label as "ATTACHMENT 6. REHABILITATION GOALS."

4. Indicate below the estimated amount and percentage of CHRP-O loan funds which will be utilized for the following types of eligible uses of funds pursuant to Section 8044 of the program regulations:

a. Rehabilitation work to correct code deficiencies: $_____ ____%

b. Rehabilitation work to correct incipient code deficiences: $_____ ____%

c. Construction of room additions: $_____ ____%

d. Rehabilitation work to ensure accessibility of the property to handicapped borrowers or dependents: $_____ ____%

e. General property improvements: $_____ ____%

f. Loan origination costs: $_____ ____%

g. Building permits and related government fees: $_____ ____%

h. Architectural, engineering and other technical consultant services related to the property rehabilitations: $_____ ____%

5. Provide a budget, detailing the local entity's costs to process CHRP-O loans, including the cost of processing individual loans. Also identify the amount of payments which will be received for each loan from any other source of funding which is leveraged with CHRP-O funds in the administration of the local program. Label as "ATTACHMENT 7. ADMINISTRATIVE BUDGET."

B. LOCAL PROGRAM DESIGN AND PROCESS

Describe the design and process of the proposed CHRP-O program and label as "ATTACHMENT 8. CHRP–O PROGRAM DESIGN." Include information about the following:

1. Marketing plan - Discuss proposed marketing for specific service areas and population. Include a copy of any established waiting list.

2. Screening procedures - Include a description of the criteria used in determining who will be placed on the local program waiting list, if any, and who will receive applications to apply for CHRP-O funds.

3. Pre-construction processes - Include the process for inspections, preparation of work write-ups and cost estimates.

4. Loan approval process - Include the methods of verifying income, credit history, mortgage liens, condition of title on the property, and value of property/appraisals for local and CHRP-O funds.

5. Fund disbursement procedures - Include the timeframes for disbursing funds to contractors.

6. Supervision of rehabilitation - Include construction management and monitoring and include how supervision of any owner-performed rehabilitation activities will differ from the supervision of construction performed by licensed contractors.

7. Construction completion - Include file close-out procedures.

C. TIMEFRAMES

State the anticipated timeframe for the CHRP-O program. This should include the date by which all loans made under this commitment will be submitted to the Department for approval, the date by which all projects will be in the construction phase, and the date by which all loan files will have been completed. Label as "ATTACHMENT 9. TIMEFRAMES."

D. STAFFING

Provide a list of the staff assigned to implement and operate each of the following phases of the CHRP-O program: fund disbursement; loan approval; loan processing; and inspection services. Include a job description of the overall duties of each person who will work on the CHRP-O program, and a description of related experience for each staff person listed. Label as "ATTACHMENT 10. STAFFING DESCRIPTION."

SECTION IV. LOCAL HOUSING NEEDS

A. LOCAL HOUSING NEED

1. Provide the information requested below for the areas in which you intend to operate the CHRP-O program.

a. Current estimated total owner-occupied properties: _____

b. Current estimated total owner-occupied properties needing rehabilitation: _____

c. Total properties vacant for sale as reported in the 1980 census data: _____

d. Total owner-occupied properties as reported in the 1980 Census data: _____

e. Total owner lower-income households paying 25% or more of income for monthly housing costs as reported in the 1980 census data: _____

f. Of the current estimated total owner-occupied properties, indicate the estimated percentage that will need rehabilitation (b divided by a): _____

g. Of the sum of the 1980 estimated total owner-occupied properties and the 1980 total properties vacant for sale, indicate the estimated percentage that were vacant for sale (c divided by the sum of d plus c):

h. Of the total owner-occupied properties reported in the 1980 census, indicate the percentage that were affordable (the difference of d minus e, divided by d): _____

2. Submit any documentation supporting the data reported above and label as "ATTACHMENT 11. LOCAL HOUSING NEED."

B. LOCAL HOUSING PROGRAMS

1. Indicate the status of the local housing element of the General Plan.

a. Substantive compliance: _____

(Substantive compliance is demonstrated by a letter from the Department which sets forth findings that the housing element adopted within the timeframes required by Section 65588 of the Government Code includes that substance essential to every requirement of Article 10.6, commencing with Section 65580, of Chapter 3 of Division 1 of Title 7 of the Government Code.)

b. Procedural compliance: _____

(Procedural compliance means that the local public entity has complied with all procedures required by law for the Department's review of a draft housing element, local adoption of the element, and submission of the adopted element to the Department.)

c. Not in compliance: _____

d. Not yet submitted to the department: _____

2. Provide a copy of the most recent correspondence from the Department indicating the status of the housing element. If the local housing element is not in substantive compliance, the local agency may submit the current element and may receive an expedited review to determine its current status. Label as "ATTACHMENT 12. HOUSING ELEMENT STATUS."

3. Attach documentation, including applicable parts of the housing element or a letter from the jurisdiction in which the local program will operate, supporting the statements checked below. Label as "ATTACHMENT 13. LOCAL HOUSING PROGRAMS." Check all applicable statements:

a._____ The local program has received a commitment of financial or nonfinancial assistance from a local public entity.

b._____ The service area has received a commitment for financial or nonfinancial assistance in support of lower–income housing from a source other than a local public entity.

c._____ The local program is eligible for financial or nonfinancial assistance under a local public entity's program in support of lower-income housing, but has not received a commitment.

d._____ The service area is located in a city or the unincorporated area of a county that has programs in support of lower-income housing, but is ineligible for these programs.

e._____ None of the above apply.

C. Briefly discuss how the CHRP-O funds will be used to address the community's identified housing rehabilitation needs. Label as "ATTACHMENT 14. ADDRESSING REHABILITATION NEEDS."

SECTION V. SOURCES OF FUNDS

A. Identify other sources of rehabilitation loan or grant funds available in the service area that will be leveraged with a CHRP-O deferred payment loan and label as "ATTACHMENT 15. FUNDING SOURCES." Include the following information for each source:

1. Source of funds
2. Amounts available
3. Status of availability
4. Expiration dates
5. Evidence of funding
6. Terms and conditions

B. Describe the circumstances under which CHRP-O funds will be used alone or in combination with other available public or private funds. Include a specific description of all leveraging arrangements.

C. Attach letters of intent or support from each funding source listed in (a) above. Label as "ATTACHMENT 16. FUNDING SOURCE LETTERS."

SECTION VI. RESOLUTION AND CERTIFICATIONS

A. GOVERNING BOARD RESOLUTION

Attach the resolution, duly executed by the governing board of the local entity granting authority to make application to the department for a funding commitment from the CHRP-O. Label as "ATTACHMENT 17. GOVERNING BOARD RESOLUTION." A sample resolution is included in this application package as Exhibit B.

B. CERTIFICATIONS

Attach a certification signed by the Chief Executive of the local entity certifying that the information and statements provided in the application are true, accurate and complete to the best of the Chief Executive's knowledge. Label as "ATTACHMENT 18. CERTIFICATION AND COMMITMENT OF RESPONSIBILITY." A sample form is included in the application as Exhibit C.

SECTION VII. LEGISLATIVE REPRESENTATIVES

Indicate all Legislators who represent any portion of the proposed service area.

Members of the Assembly

District number: _____

Name: _____

District Address: _____

City: _____

District number: _____

Name: _____

District Address: _____

City: _____

State Senators

District number: _____

Name: _____

District Address: _____

City: _____

District number: _____

Name: _____

District Address: _____

City: _____

SECTION VIII. EXHIBITS

Exhibit A - Attachment Checklist

Exhibit B - Local Entity Sample Resolution

Exhibit C - Local Entity Certification and Commitment of Responsibility

NOTE: Review your application and Attachments/Exhibits for completeness, as incomplete packages will not be rated.

EXHIBIT A

ATTACHMENT CHECKLIST

Check if Applicable	Check if Included		
[ ]	[ ]	1.	NONPROFIT CORPORATION DOCUMENTS AND FINANCIALS
[ ]	[ ]	2.	APPLICANT QUALIFICATIONS
[ ]	[ ]	3.	CONSULTANT QUALIFICATIONS AND COMMITMENT
[ ]	[ ]	4.	MAP
[ ]	[ ]	5.	LOCAL PROGRAM SERVICE AREA: SPECIAL CHARACTERISTICS
[ ]	[ ]	6.	REHABILITATION GOALS
[ ]	[ ]	7.	ADMINISTRATIVE BUDGET
[ ]	[ ]	8.	CHRP-O PROGRAM DESIGN
[ ]	[ ]	9.	TIMEFRAMES
[ ]	[ ]	10.	STAFFING DESCRIPTION
[ ]	[ ]	11.	LOCAL HOUSING NEED
[ ]	[ ]	12.	HOUSING ELEMENT STATUS
[ ]	[ ]	13.	LOCAL HOUSING PROGRAMS
[ ]	[ ]	14.	ADDRESSING REHABILITATION NEEDS
[ ]	[ ]	15.	FUNDING SOURCES
[ ]	[ ]	16.	FUNDING SOURCE LETTERS
[ ]	[ ]	17.	GOVERNING BOARD RESOLUTION
[ ]	[ ]	18.	CERTIFICATION AND COMMITMENT OF RESPONSIBILITY

EXHIBIT B
(SAMPLE RESOLUTION)

RESOLUTION NO. _____

THE GOVERNING BOARD OF

_____

(Title of Local Entity)

HEREBY AUTHORIZES THE SUBMITTAL OF AN APPLICATION FOR FUNDING, THE EXECUTION OF A STANDARD AGREEMENT AND ANY AMENDMENTS THERETO, AND ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE CALIFORNIA HOUSING REHABILITATION PROGRAM FOR OWNER-OCCUPIED HOUSING AND SECURE A COMMITMENT OF FUNDS FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

WHEREAS

A. _____ (name of Local Entity), a California _____ (type of Local Entity) organized and operated under the Constitution and laws of the State of California, wishes to receive a commitment of funds and participate in the California Housing Rehabilitation Program for Owner-Occupied Housing (hereinafter referred to as "CHRP-O").

B. The California Department of Housing and Community Development (hereinafter referred to as the "department") is authorized to make funds available for deferred payment loans for the purpose of financing housing rehabilitation and has issued a Notice of Funding Availability under CHRP-O.

C. The _____ (name of Local Entity) wishes to obtain from the department, a commitment of funds for the purpose of providing deferred payment loans to finance housing rehabilitation costs for eligible borrowers under a local housing rehabilitation program.

IT IS NOW RESOLVED THAT:

1. The _____ (name of Local Entity) shall submit to the department an application for participation in CHRP-O and to request a commitment of funds for the purpose of providing deferred payment loans to finance housing rehabilitation costs for eligible borrowers under a local housing rehabilitation program located in _____ (program location).

2. If the application is approved, the _____ (name of Local Entity) is hereby authorized to enter into a standard agreement with the department for the purposes set forth in the application and approved by the department. It also may execute other instruments necessary or required by the department for participation in CHRP-O.

3. The _____ (name of Local Entity) is further authorized to request amendments, including increases in fund commitments up to the maximum amounts approved by the department and to execute any and all documents required by the department to evidence and secure these amendments.

4. The _____ (name of Local Entity) authorizes _____ _____ [office of position titles of authorized person(s)] to execute in the name of the _____ (name of Local Entity), the application, the standard agreement, and other documents necessary or required by the department for the participation in the CHRP-O, and any amendments thereto.

PASSED AND ADOPTED THIS _____ day of _____ , 19 ___, by the following vote:

AYES: ____ NAYS: ____ ABSTAIN: ____ ABSENT: ____

The undersigned _____ (title of officer) of the _____ (name of Local Entity) therebefore named does hereby attest and certify that the foregoing is a true and full copy of a resolution of the Governing Board adopted at a duly convened meeting on the date above-mentioned, which has not been altered, amended or repealed.

_____

Signature Date

NOTE:

This is intended to be a model for resolutions authorizing loan applications. Applicants may use their own format if it contains
substantially all the authorizations in the model.

EXHIBIT C

California Housing Rehabilitation Program
for Owner-Occupied Housing

LOCAL ENTITY CERTIFICATION AND COMMITMENT OF RESPONSIBILITY

Local Entity Name: _____

Location of Local Program: _____

I, _____ (name), _____ (title), the official designated by the governing body, for the _____ (Local Entity), hereby certify that if approved by the department for a CHRP-O funding commitment, the _____ (Local Entity) assumes the responsibilities specified in the California Housing Rehabilitation Program regulations and certifies to the following:

(1) that the local legislative body has been notified of the intent to apply for CHRP-O funds to assist in the operation of a local housing rehabilitation program in their jurisdiction;

(2) that the local program proposed in this application complements the implementation of existing local housing programs to preserve and increase the supply of low- and moderate-income housing;

(3) that a survey of the local program service area has been completed and the information regarding the condition of the housing in the service area is accurate;

(4) that the local entity has committed to make available the financial and other assistance specified in this application and will not use the CHRP-O funds to reduce the level of funding that is or will be available for housing rehabilitation in the service area.

(5) that the local entity is committed to achievement of the performance standards specified in this application;

(6) that the information, statements, and attachments contained in this application are, to the best of my knowledge and belief, true and correct.

I authorize the Department of Housing and Community Development to contact any or all of the agencies listed in this application. All information contained in this application is acknowledged to be public information.

_____ Signature _____ Title

_____ (Type Name) _____ Date

(d) A complete application shall consist of the following:

(1) a fully completed form HCD O–001, California Housing Rehabilitation Program for Owner–Occupied Housing (CHRP–O), Local Program Application, dated 8/90, accompanied by all attachments applicable to the local program under consideration; and

(2) any other information the department may require in order to determine the eligibility of the proposed local program, to evaluate or rate the proposed local program, or to determine that the applicant is capable of implementing and operating the proposed local program.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50079, 50091, 50661 and 50668.5(a), Health and Safety Code.

HISTORY

1. New section filed 11–30–89 as an emergency; operative 11–30–89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–30–90.
2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.
3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8–27–90 order filed 12–21–90 as an emergency; operative 12–21–90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4–22–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsections (a), (b), (c) and (d) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

§ 8055. Local Program Selection.

(a) Local programs shall not be considered for funding unless the application demonstrates that all of the following conditions exist:

(1) the applicant is eligible pursuant to section 8042;

(2) all proposed uses of program funds are eligible pursuant to section 8044(a) and (b);

(3) the application is complete pursuant to section 8054(c); and

(4) the total amount of funds requested does not exceed the local program funding limit which is stated in the NOFA pursuant to section 8053(b).

(b) Local programs shall be funded according to the following procedure subject to the availability of funds:

(1) An application for a local program must receive a minimum of 60 points to be considered for funding. Local programs which are approved for funding shall be funded in the order they are rated.

(2) If two or more applications have the same number of points, the department shall first fund the local program for which a complete application was first submitted.

(c) Each local program considered for funding shall be rated using the following criteria and maximum possible rating points:

(1) The percentage of total properties occupied by very low–income households to be rehabilitated under the local program. (20 points)

(2) The percentage of total properties which contain three or more bedrooms to be rehabilitated under the local program. (20 points)

(3) Need for rehabilitation of owner–occupied properties as indicated in supporting documentation, which may include the local housing element. (20 points)

(4) The extent to which the proposed local program complements an existing housing program in the local jurisdiction in which the proposed local program is located. Points shall be allocated based upon the following criteria:

(A) The extent to which the city's, county's or city and county's housing element complies with the requirements of law. (10 points)

(B) The extent to which a local public entity is implementing other programs which promote the availability of affordable housing. (10 points)

(5) High ratio of other funds to be leveraged with program funds in the proposed local program. (20 points)

Maximum possible points 100

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50105, 50668.5(a) and 50668.5(b), Health and Safety Code; and Section 65583, Government Code.

HISTORY

1. New section filed 11–30–89 as an emergency; operative 11–30–89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–30–90.
2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.
3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8–27–90 order filed 12–21–90 as an emergency; operative 12–21–90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4–22–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsections (a), (b) and (c) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

Article 5. Program Operations

§ 8056. Legal Documents.

(a) The department shall enter into a Standard Agreement with the local entity. This contract shall require the parties to comply with the regulations and provisions described in this subchapter. The Standard Agreement shall encumber monies from the account in an amount sufficient to fund the approved local program. The agreement shall also stipulate performance goals required for continued local program compliance and funding. The Standard Agreement shall contain, but not be limited to, provisions related to the following:

(1) the granting and cancellation of commitments of state funds to the local entity;

(2) local entity responsibilities for local program operation, including program timeframes, performance goals, marketing, loan processing, loan funding, construction monitoring, construction disbursement, report submissions, and loan file documentation;

(3) eligible uses of deferred payment loan funds for rehabilitation costs and grant funds for local program administration expenses;

(4) standards and processes for certification and decertification of the local entity's ability to approve borrower deferred payment loans;

(5) reporting requirements, including quarterly reports, pursuant to section 8060;

(6) local entity responsibility for the use of escrow companies and interest–bearing escrow accounts for the disbursement of loan funds and the use of other consultants providing third–party services necessary for local program administration;

(7) the criteria to be used in evaluating Prospective borrower eligibility for a deferred payment loan, including income, ownership, credit history, loan security, rehabilitation cost, and monthly housing expense;

(8) the loan approval process requiring that the local entity evaluate and document applications for deferred payment loans pursuant to section 8057;

(9) deferred payment loan terms and conditions;

(10) fund disbursement requirements, including provisions for receipt, use, and accounting of department funds pursuant to section 8058;

(11) rehabilitation work requirements such as drawings, construction schedules, rehabilitation specifications and standards, work write-ups, cost breakdowns, bid procedures, construction contracts, inspections, licenses, insurance, lien releases, cost accounting and documentation, and owner-performed work;

(12) requirements that the local entity not discriminate or permit discrimination on account of race, color, religion, ancestry, sex, age, national origin, marital status, and mental or physical handicap, in accordance with all local, State, and Federal laws governing and restricting such discrimination or requiring affirmative action. To further ensure that deferred payment loans are made in a nondiscriminatory manner, the local entity shall agree to abide by the restrictions placed upon financial institutions under the Holden Act (Health and Safety Code division 24, part 6, "Financial Discrimination" commencing with section 35800);

(13) remedies available to the department in the event of a violation, breach, or default of the Standard Agreement to ensure compliance with program requirements for the full term of the agreement, including repayment of all costs of enforcement;

(14) requirements for the execution and, where appropriate, the recordation of the agreements and documents required under the program;

(15) requirement that the local entity assign the borrower loan agreement to the department;

(16) any terms and conditions as required by local, State, or Federal law; and

(17) other provisions necessary to ensure compliance with the requirements of this program.

(b) A borrower shall enter into a loan agreement with the local entity governing the rehabilitation and loan terms. The loan agreement shall contain the following terms and conditions:

(1) the deferred payment loan amount, term, and rate of interest, including specific terms of repayment of interest and principal pursuant to sections 8047, 8048, and 8049;

(2) a timeframe for the work to be performed;

(3) the approved cost of the work to be performed;

(4) method of contractor selection, including terms and conditions of nondiscrimination as required by law;

(5) the method and schedule for disbursement of funds to borrowers and/or contractors;

(6) compliance with local, State, or Federal laws, ordinances, and regulations applicable to rehabilitation of the property, including zoning ordinances, building codes, planning, historical preservation, and environmental regulations;

(7) requirements regarding contractor performance, construction agreements, and borrower-performed rehabilitation activities;

(8) provisions allowing the local entity or department, or its designees or employees, after reasonable notice to the borrower, to enter upon and inspect the property at any time during or after rehabilitation; or to inspect the books and records of the borrower related to the deferred payment loan funds at any time during or after rehabilitation of the property which is assisted by the deferred payment loan;

(9) provisions relating to deferred payment loan extensions, refinancing, and subordination;

(10) provisions relating to sales, transfers, and encumbrances pursuant to section 8051;

(11) terms and conditions relating to defaults in repayment or breach of the loan agreement and remedies available to the parties thereto, pursuant to section 8052;

(12) property insurance requirements pursuant to section 8057(e)(2)(b);

(13) provisions that indemnify the State for all claims and losses in performance of this agreement;

(14) a provision for the loan agreement to be assignable to the department; and

(15) any other provisions necessary to ensure compliance with the requirements of this program.

(c) A borrower shall execute the following deferred payment loan documents prior to transfer of any funds to the local entity:

(1) a promissory note naming the department as payee;

(2) a deed of trust naming the department as beneficiary and sufficient to secure the obligations of the promissory note;

(3) a truth-in-lending disclosure statement;

(4) a notice of right to cancel; and

(5) any other documents as required by the department to protect the interests of the State.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 35800, 50661, 50664, 50668 and 50668.5(a), Health and Safety Code; and Section 12990, Government Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section filed 7-26-90 as an emergency; operative 7-26-90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11-23-90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsections (a) and (b) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

§ 8057. Loan Approvals.

(a) The local entity shall review and evaluate each prospective borrower's application for a deferred payment loan to determine whether the requirements of this subchapter would be met if the loan were funded. In performing this review, the local entity shall evaluate whether the State's security interest would be protected and whether the loan funds will be repaid. The local entity's evaluation shall also include a determination on each of the specific criteria set forth below in subdivision (d) of this section.

(b) For those loans which it recommends for funding, the local entity shall submit loan files to the department, which contain copies of the documents described in subdivision (e)(1) of this section, as well as the local entity's determination on each of the specific criteria set forth in subdivision (d) of this section. The department may disapprove a deferred payment loan submitted by the local entity if the deferred payment loan does not meet the requirements of this subchapter, and shall notify the local entity in writing within 30 working days following receipt of the deferred payment loan file of the reasons for denial.

(c) Where there are indications that the prospective borrower may not meet the deferred payment loan requirements of subdivision (a) of this section, the local entity may request departmental approval of the deferred payment loan, providing there are mitigating circumstances, which apply to the prospective borrower.

(d) When reviewing loans for approval, the local entity evaluation shall include determinations on each of the following criteria:

(1) The prospective borrower's loan application is consistent with the performance goals set forth in the Standard Agreement;

(2) the prospective borrower's loan application is complete and accurate;

(3) the deferred payment loan amount is consistent with the requirements of section 8048;

(4) the prospective borrower is eligible pursuant to section 8043;

(5) the loan security shall meet the requirements as specified in section 8050;

(6) the prospective borrower's credit report indicates an ability to repay all debts, including:

(A) no credit accounts past due at the time the prospective borrower's deferred payment loan is recorded;

(B) no outstanding unpaid judgments or involuntary liens; and

(C) no bankruptcies, which have not been dismissed prior to deferred payment loan recordation;

(7) the preliminary title report shows:

(A) proper vesting of title with the prospective borrower;

1. If the prospective borrower holds title with another party also who is not applying for the loan, the other party shall sign all required loan documents.

2. In cases where a joint tenancy or tenants–in–common is dissolved, the title documents must be corrected to reflect the change.

(B) the legal description of property;

(C) all encumbrances on the property. Any encumbrances which have been repaid shall be reconveyed and recorded prior to recording of the deferred payment loan; and

(D) no judgments, mechanic liens, or property tax liens due on the property.

(8) the mortgage verification for each existing encumbrance on the property indicates:

(A) a date not more than three months prior to deferred payment loan approval;

(B) that payments are current at the time of verification and, in the past, have not been more than 60 days delinquent;

(C) the financing terms including, but not limited to, variable interest rate, balloon payments, or negatively amortizing loans, which may jeopardize the state's security and the borrower's ability to repay the deferred payment loan; and

(D) the current balance of the mortgage and of any impound accounts for taxes and assessments.

(9) the prospective borrower has demonstrated an ability to maintain the property;

(10) the proposed uses of funds are eligible pursuant to section 8044(a);

(11) the cost estimates and work write–ups adequately describe the existing conditions and problems which require rehabilitation and accurately specify the rehabilitation work, room additions and improvements and accurately specify the work necessary to correct the deficiencies;

(12) the selected contractor's bid proposal is reasonable and meets the requirements of section 8046(e); and

(13) all other provisions of this subchapter have been met.

(e) The local entity shall maintain a loan file for each deferred payment loan application which shall contain, at a minimum, the following documents which shall be obtained in accordance with the following schedule:

(1) prior to loan approval:

(A) loan application;

(B) verification of the prospective borrower's income;

(C) a credit report;

(D) a preliminary title report;

(E) mortgage verifications;

(F) property appraisal;

(G) a cost estimate and work write–up;

(H) a contractors' selection statement which indicates all bids received and the contractor selected;

(I) the selected contractor's bid proposal, drawings, specifications, and proposed contract;

(J) commitment letters from other funding sources used to leverage state funds in completing a rehabilitation project;

(K) map of the property location;

(L) any other documents or justifications necessary to determine the eligibility of the borrower and to approve the deferred payment loan.

(2) After loan approval, but prior, or concurrent with, loan recordation:

(A) the properly executed and recorded deferred payment loan documents pursuant to section 8056(c);

(B) proof of hazard insurance, which names the department as loss payee, in an amount sufficient to cover the amount of the deferred payment loan and all liens recorded in a senior position, or the replacement value of the property, whichever is less;

(C) a title insurance policy insuring the department in the amount of the deferred payment loan, which shall also include a legal description of the property, the property street address, the county tax assessor's value, property tax information, the deferred payment loan as recorded, and any superior liens recorded against the property;

(D) the construction contract between the contractor and the borrower;

(E) verification of the worker's compensation and liability insurance maintained by the contractor and verification of the contractor's license as required in the construction agreement; and

(F) evidence of commitment of other funds that are leveraging state funds to complete the rehabilitation.

(3) After loan closing and prior to disbursement of final contractor retention payment:

(A) all records of contractor progress payments;

(B) all change orders;

(C) all building permits with appropriate approvals;

(D) a copy of the properly recorded Notice of Completion;

(E) copies of lien releases from the general contractor or general contractors; and

(F) a title update, which reflects all trust deeds, liens, judgements, attachments and all encumbrances, voluntary or involuntary, on title.

(f) Notwithstanding the requirement specified in subdivision (b) of this section that the local entity shall submit deferred payment loan files for department approval, the department may authorize the local entity to directly approve deferred payment loan files in accordance with the following requirements:

(1) The department shall review at least the first five deferred payment loans containing the documents specified in subdivision (e)(1) of this section and provide written comments on each file to the local entity regarding its compliance with program requirements pursuant to this subchapter. The department has the sole decision on the number of deferred payment loans to be reviewed prior to granting authorization to a local entity to approve deferred payment loans and shall base that decision on evidence that the local entity is fully capable of meeting all applicable requirements of this subchapter. Upon written request by the local entity and determination by the department that the local entity has the capability to evaluate and package deferred payment loans, the department shall certify the local entity and delegate approval authority.

(2) After certifying the local entity and delegating approval authority, the department shall periodically review deferred payment loans that have closed and provide a written review to the local entity on compliance with the program and contract requirements. The department shall randomly select any loan files for review. The local entity shall be notified that continued problems in the local entity's evaluation and approval of deferred payment loans pursuant to subdivision (a) of this section shall result in the discontinuation of the authorization and certification.

(3) The department shall condition its certification of the local entity and authorization to approve deferred payment loans on the basis of certification of specific loan officers employed by the local entity. If the certified loan officer ceases to serve in the capacity of approving loans, the local entity must notify the department and the authorization to approve

deferred payment loans shall be discontinued by the department until such time as a new loan officer employed by the local entity is certified by the department.

(4) When the local entity has been certified to approve deferred payment loans, the local entity shall request department approval of the deferred payment loan if the borrower is seeking an exception to the deferred payment loan limits or loan-to-value requirements.

(g) Notwithstanding subdivision (f) of this section, local entity approval authority may be rescinded, and future deferred payment loans shall be subject to department approval prior to the disbursement of funds. Rescission of deferred payment loan approval authority shall occur if the department determines that local entity performance no longer indicates capability to make deferred payment loans in accordance with the requirements of this subchapter. The local entity may appeal the rescission of authority to the director.

(h) The local entity shall transmit to the department for monitoring and management each completed deferred payment loan file containing the original documents specified in subdivision (e) of this section within forty-five days following completion of construction and disbursement of the final retention payment. Local entities shall keep copies of all deferred payment loan files for five years after completion of rehabilitation work and recordation of the notice of completion. The department shall require the local entity to rectify any errors or omissions discovered in the deferred payment loan files.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50662, 50668.5 and 50668.5(a), Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section filed 7-26-90 as an emergency; operative 7-26-90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11-23-90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsections (a), (b), (c), (d), (e), (f), (g) and (h) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

§ 8058. Disbursement of Loan Funds.

(a) Upon deferred payment loan approval and request by the local entity, the department shall disburse funds for deferred payment loans loan account approved by the department.

(b) Requests for deferred payment loan funds shall be on Form HCD O-003, California Housing Rehabilitation Program for Owner-Occupied Housing (CHRP-O), Request for Funds, dated 8/90, as set forth in subdivision (c) of this section. This request for funds form is provided by the department. The information on any request shall be subject to verification by the department.

(c) Copy of Form HCD O-003, California Housing Rehabilitation Program for Owner-Occupied Housing (CHRP-O), Request for Funds, dated 8/90.

HCD O–003, 8/90

CALIFORNIA HOUSING REHABILITATION PROGRAM
FOR OWNER–OCCUPIED HOUSING (CHRP–O)
REQUEST FOR FUNDS

TO:

Department of Housing and Community Development
Division of Community Affairs, CHRP–O
P. O. Box 952054
Sacramento, CA 94252–2054
ATTN: Senior Program Manager

FROM:

(Local Entity): _____
(Address): _____
_____
_____
_____

	Loan Funds Requested	Grant Funds Requested
Contract No.: _____	$ _____	$ _____ [ ] Draw #1 [ ] Draw #2

Borrower Name: _____

Borrower Loan No.: _____

Payee Name/Address:

_____
_____
_____
_____

Cumulative Data:

Total Fund Commitment by HCD	Total Amount of Prior Drawdowns	Loan Funds Requested for Disbursement	Grant Funds Requested for Disbursement	Total Approved this Request for Disbursement	Balance Remaining in Funds Commitment
$ _____	$ _____	$ _____	$ _____	$ _____	$ _____

I, the undersigned, do hereby certify that the above costs were/will be incurred in the performance of the above–numbered contract and, if address is not payee, do also certify that the above addressee is authorized to act as agent of the payee for the purpose of receiving and depositing the above stated sum.

SIGNED _____ TITLE _____

BY _____ DATED _____

_____ DO NOT WRITE BELOW THIS LINE _____

The work performed for which this billing is prepared is in accordance with all provisions of Contract # _____ between _____ and HCD and is approved for payment. Please disburse funds in the total amount of $ _____, payable to payee indicated above. Please phone 323–3178 when the warrant is received by HCD Accounting.

Date: _____ _____
Senior Program Manager

PCA/Index: _____ Fund # _____

(d) Deferred payment loan funds shall only be disbursed for approved deferred payment loans in accordance with the following:

(1) In the event the local entity is not certified to approve deferred payment loans, the local entity shall submit to the department with Form HCD O–003, California Housing Rehabilitation Program for Owner–Occupied Housing (CHRP–O), Request for Funds, dated 8/90, the loan file completed pursuant to Subdivision 8057(e)(1) for which funds are being requested.

(2) In the event the local entity is certified to approve deferred payment loans, the local entity shall submit to the department with Form HCD O–003, California Housing Rehabilitation Program for Owner–Occupied Housing (CHRP–O), Request for Funds, dated 8/90, a description of the deferred payment loan for which funds are being requested.

(e) Deferred payment loan funds shall be deposited and maintained in a separate, interest–bearing escrow account, which shall include only funds transferred pursuant to this subchapter.

(f) Prior to the disbursement of deferred payment loan funds, the local entity shall ensure that the documents specified in section 8056(c) are completed, executed and recorded.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY

1. New section filed 11–30–89 as an emergency; operative 11–30–89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–30–90.
2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.
3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8–27–90 order filed 12–21–90 as an emergency; operative 12–21–90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4–22–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsections (a), (b), (d), (e), and (f) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

§ 8059. Disbursement of Administrative Grants.

(a) Administrative grants will be paid upon request by the local entity in two installments: 50 percent payable at deferred payment loan recordation and 50 percent payable upon receipt by the department of the deferred payment loan file pursuant to Section 8057(h). The final administrative grant payment will be contingent upon the department's determination that the deferred payment loan file is complete and accurate.

(b) Requests for administrative grant funds shall be on Form HCD O–003, California Housing Rehabilitation Program for Owner–Occupied Housing (CHRP–O), Request for Funds, dated 8/90, as set forth in section 8058(c). This Request for Funds form is provided by the department.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Section 50661(a), Health and Safety Code.

HISTORY

1. New section filed 11–30–89 as an emergency; operative 11–30–89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–30–90.
2. New section refiled 3–26–90 as an emergency; operative 3–30–90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7–30–90.
3. New section filed 7–26–90 as an emergency; operative 7–26–90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11–23–90 or emergency language will be repealed by operation of law on the following day.
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5. New section refiled 11–16–90 as an emergency; operative 11–16–90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
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7. Certificate of Compliance as to 11–30–89 order, readopted and operative on 3–30–90, 7–26–90 and 11–16–90, including amendment of subsection (b) transmitted to OAL 11–30–90 and filed 12–31–90 (Register 91, No. 7).

§ 8060. Reporting Requirements.

(a) During the term of the Standard Agreement and, no later than 30 days after the end of each calendar quarter, the local entity shall submit to the department a performance report on Form HCD O–002, Quarterly Report, California Housing Rehabilitation Program for Owner–Occupied Housing (CHRP–O), dated 8/90, as set forth in subdivision (b) of this section. This form is provided by the department.

(b) Copy of form HCD O–002, Quarterly Report, California Housing Rehabilitation Program for Owner–Occupied Housing (CHRP–O), dated 8/90.

HCD O-002, 8/90

DATE: _____

QUARTERLY REPORT

CALIFORNIA HOUSING REHABILITATION PROGRAM
FOR OWNER-OCCUPIED HOUSING (CHRP-O)

for the quarter beginning _____ and ending _____

LOCAL ENTITY _____ CONTACT _____

ADDRESS _____ TELEPHONE (_____) _____

Marketing

1. Have you established a waiting list and, if so, how many households are on the list? _____
2. How have you marketed the CHRP-O during this quarter? _____
3. Have you experienced any difficulties in marketing the CHRP-O during this quarter and, if so, what are they and how are you resolving them?

_____

Loan Processing

1 How many loan packages have you initiated during this quarter? _____
2 How many loan packages or requests for funds have you submitted to HCD during this quarter?_____
3. Have you experienced any difficulties in processing CHRP-O loans during this quarter and, if so, what are they and how are you resolving them?

_____

4. How many CHRP-O loans do you expect to initiate during the next quarter?_____
5. How many CHRP-O loans or requests for funds do you expect to submit to HCD during the next quarter?_____

Loans Closed and In Construction

1. Describe any delays or problems you are experiencing in your loan closing procedures and any steps you are taking to mitigate them.

_____

2. Describe any problems you are experiencing in contractor participation and performance and any steps you are taking to mitigate them.

_____

Contract Fund Status

		This Quarter Only	Cumulative
1.	CHRP-O loan funds requested:	_____	_____
2.	CHRP-O administrative funds requested:	_____	_____
3.	Balance of administrative funds due:	_____	_____
	TOTAL	_____	_____

Program Administration

1. Have you had any staffing changes during this quarter? If so, please describe.

_____

2. Please provide any general comments or problems you have experienced and your suggestions for improvements to the program.

_____

3. Please provide the amount of CHRP-O funds and other funds committed, as well as loan and construction data for each loan received during this quarter (itemize on attached Quarterly Data form).

QUARTERLY DATA

Loans Initiated (Date Received/ Borrower's Name)	% of median income/# of bedrooms	Loan Request Denial/Apprv. (Date)	$ Amount CHRP–O	Date Loan Closed	Date Const. Began	Date Const. Completed	Final Docs to HCD (Date)	Funds Combined with CHRP–O	
								$ Amount	Type
TOTALS – – – –									

(c) At any time during the operation of the local program, the department may perform or cause to be performed a financial audit of any and all phases of local program operations. At the department's request, the local entity shall provide, at its own expense, a financial audit prepared by a certified public accountant.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Section 50668.5(a), Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section filed 7-26-90 as an emergency; operative 7-26-90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11-23-90 or emergency language will be repealed by operation of law on the following day.
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6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsection (a) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

§ 8061. Cancellation and Termination.

(a) Commitments from the account to local entities shall be cancelled and Standard Agreements shall be terminated by the department under any one of the following conditions:

(1) local program operations are not in compliance with the program or the Standard Agreement;

(2) implementation of the local program is not in compliance with the timeframes and goals stated in the local entity's application and Standard Agreement; or

(3) special conditions for funding as stated in the Standard Agreement have not been fulfilled.

(b) The department shall provide written notice to the local entity of its intent to cancel the fund commitment. Upon receipt of a notice of intent to cancel the fund commitment, the local entity shall have the right to appeal the decision to the director.

(c) In the event a commitment is cancelled and the Standard Agreement is terminated, all loans and construction in process shall be monitored and supervised by the department or its agent in accordance with the requirements of this subchapter.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Section 50668.5(a), Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section filed 7-26-90 as an emergency; operative 7-26-90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11-23-90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsections (a) and (c) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

§ 8062. Default Reserve Subaccount.

(a) The department shall establish an owner-occupied housing default reserve subaccount in the account. The default reserve subaccount shall be maintained at an amount equivalent to three percent of the amount of encumbrances from the account for deferred payment loans made pursuant to this subchapter.

(b) The department may use amounts available in the default reserve subaccount for the purpose of curing or avoiding a borrower's defaults on the terms of any loan or other obligation which jeopardizes the department's security in property securing the deferred payment loan. These defaults include defaults or impending defaults in payments on mortgages, failures to pay taxes, failures to maintain insurance, or any combination thereof.

(c) Where it becomes necessary to use monies pursuant to this section to protect the department's security in a particular borrower's property, the department shall take those actions necessary, including, but not limited to, foreclosing or forced sale of the borrower's property, to prevent similar occurrences and ensure compliance with the terms of the applicable agreements.

NOTE: Authority cited: Section 50668.5(g), Health and Safety Code. Reference: Section 50668.5(a), Health and Safety Code.

HISTORY

1. New section filed 11-30-89 as an emergency; operative 11-30-89 (Register 89, No. 49). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3-30-90.
2. New section refiled 3-26-90 as an emergency; operative 3-30-90 (Register 90, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 7-30-90.
3. New section filed 7-26-90 as an emergency; operative 7-26-90 (Register 90, No. 38). A Certificate of Compliance must be transmitted to OAL by 11-23-90 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 11-16-90 as an emergency; operative 11-16-90 (Register 90, No. 51). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. Readoption of 8-27-90 order filed 12-21-90 as an emergency; operative 12-21-90 (Register 91, No. 7). A Certificate of Compliance must be transmitted to OAL by 4-22-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-30-89 order, readopted and operative on 3-30-90, 7-26-90 and 11-16-90, including amendment of subsections (b) and (c) transmitted to OAL 11-30-90 and filed 12-31-90 (Register 91, No. 7).

Subchapter 15. Rental Housing Construction Program—Proposition 84

Article 1. General

§ 8075. Purpose and Scope.

(a) This subchapter establishes the Proposition 84 Rental Housing Construction Program and implements and interprets chapter 9 (commencing with section 50735) of part 2 of division 31, Health and Safety Code, as amended by chapter 30 of the Statutes of 1988 and chapter 1103 of the Statutes of 1989.

(b) These regulations establish procedures for the award and disbursement of loans and establish policies and procedures for use of funds allocated to the Rental Housing Construction Program by sections 53130(a)(1) and 53130(b)(1) of the Health and Safety Code.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 33007.5, 50010, 50079.5, 50735, 50736, 50766, 50771.1, 50771.2, 50894, 53130 and 53133, Health and Safety Code. Sections 7260, 7261, 7262, 7264, 7264.5, 7269, 7269.1, 7272 and 7272.3, Government Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (a) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).
8. Editorial correction of printing error in HISTORY 7 amending section to read subsection (Register 91, No. 46).

§ 8076. Definitions.

In addition to the definitions found in chapter 2 (commencing with section 50050), of part 1 of division 1 of the Health and Safety Code and subchapter 2 (commencing with section 6910) of chapter 6.5 of this title, the following definitions shall apply to this subchapter. In the event of a conflict between the following definitions and those recited above, the following definitions prevail for the purposes of this subchapter:

(a) "Article XXXIV approval" means the approval by local electors which must be obtained before a low rent housing project can be developed, constructed, or acquired in any city, town or county in California. This approval is required by section 1 of article XXXIV of the Constitution of California.

(b) "Assisted unit" means a dwelling unit, or a residential hotel unit, or a bedroom in a group home, designated for occupancy or occupied by eligible households in accordance with a Regulatory Agreement between the department and the sponsor entered into pursuant to section 8096(c).

(c) "Debt service coverage ratio" means the ratio of (1) operating income less operating expenses to (2) debt service payments, excluding voluntary prepayments.

(d) "Department" means the Department of Housing and Community Development.

(e) "Director" means the Director of the Department of Housing and Community Development.

(f) "Distributions" means the amount of cash or other benefits received from the operation of the rental housing development and available to be distributed pursuant to section 8089 to the sponsor or any party having a beneficial interest in the sponsor entity, after payment of all due and outstanding obligations incurred in connection with the rental housing development. Distributions do not include payments for debt service, voluntary loan prepayments, operations, maintenance, payments to required reserve accounts, incentive payments pursuant to section 8082, land lease payments to parties that do not have a beneficial interest in the sponsor entity, or payments for property management or other services as set forth in the Regulatory Agreement for the rental housing development.

(g) "Eligible households" means very low-income households or other lower income households.

(h) "Fiscal integrity" means that the total of operating income plus funds released pursuant to the Regulatory Agreement from the operating reserve account is sufficient to:

(1) pay all current operating expenses,

(2) pay all current debt service (excluding deferred interest),

(3) fully fund all reserve accounts (other than the operating reserve account) established pursuant to the Regulatory Agreement,

(4) maintain a debt service coverage ratio, where specified in the Regulatory Agreement, and

(5) pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the annual permitted distribution shall not be considered in determining fiscal integrity.

(i) "Fund" means the Rental Housing Construction Fund.

(j) "Group home" means a residential structure or structures, including a residential hotel, where five or more handicapped persons or households reside, share common facilities and receive direct and supportive services provided under the supervision or oversight of the local public official responsible for services to the designated tenant population, including a residential facility as defined by section 1502 of the Health and Safety Code. Intermediate care or skilled nursing facilities are not considered group homes and are not eligible for funding.

(k) "Handicapped" means a family in which the head of the household is suffering from an orthopedic disability impairing personal mobility or a physical disability affecting his or her ability to obtain employment or a single person with such an orthopedic disability or a physical disability, where the family or person requires special care or facilities in the home. "Handicapped" also includes a family in which the head of household suffers from a developmental disability specified in subdivision (a) of section 38010 of the Health and Safety Code or a mental disorder which would render him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, or a single person with such a developmental disability or mental disorder.

(l) "Household income" means the same as "gross income" as defined in section 6914 of this title.

(m) "Initial operating year" means the initial period of operation of the rental housing development, beginning at the time of the initial occupancy of the first assisted unit in the development and ending on the last day of the fiscal year of the development.

(n) "Limited equity housing cooperative" means an entity defined by section 50076.5 of the Health and Safety Code. Except as otherwise provided, all requirements in this subchapter shall be applicable to limited equity housing cooperatives assisted pursuant to this subchapter.

(o) "Lower income household" means persons or families as defined in section 50079.5 of the Health and Safety Code.

(p) "Lower income nonassisted unit" means a dwelling unit, or a residential hotel unit, or a bedroom in a group home, other than an assisted unit, which is regulated by virtue of participation in the federal tax credit program (section 42, title 26 U.S.C.) or state tax credit program (chapter 166, California Statutes of 1990), the HUD section 202 program (section 1701q, title 12 U.S.C.), the HUD section 8 program (section 1437f, title 42 U.S.C.), or other governmental program where the occupancy and rent requirements, and the term of the occupancy and rent requirements are equal to or greater than the requirements of the federal tax credit program referenced above.

(q) "Lower income unit" means an assisted unit designated for occupancy or occupied by any lower income household.

(r) "Nonprofit corporation" means the same as defined in section 50091 of the Health and Safety Code.

(s) "Operating expenses" means the amount approved by the department that is necessary to pay for the recurring expenses of the project, such as utilities, maintenance, management, taxes, and licenses, but not including debt service, required reserve account deposits, or costs for direct or supportive tenant services that tenants are not required to pay for as a condition of occupancy.

(t) "Operating income" means all income generated in connection with operation of the rental housing development including rental income for assisted and nonassisted units, rental income for commercial space, laundry and equipment rental fees, rental subsidy payments, and interest on any accounts related to the rental housing development. "Operating income" does not include security and equipment deposits, payments for direct or supportive tenant services that tenants are not required to pay for as a condition of occupancy, or tax benefits received by the sponsor.

(u) "Other lower income household" means persons or families as defined in section 6928 of title 25.

(v) "Program" means the Rental Housing Construction Program.

(w) "Project" means a rental housing development, the development, construction and operation thereof, using program funds, and the financing structure and all agreements and documentation approved in connection therewith.

(x) "Rent" means all mandatory charges, other than deposits, paid by the tenant for the use and occupancy of an assisted unit. In a group home, when mandatory charges include direct and supportive tenant services, "rent" means that portion of the tenant's payment required to pay for debt service, reserves required by the department, and operating expenses, excluding expenses for the mandatory direct and supportive tenant services. Direct and supportive tenant services means meals, transportation, housekeeping services, recreational and social activities, independent living training, vocational training, counseling, and similar services provided or organized by the sponsor or its agent.

(y) "Rent-up costs" means costs incurred in connection with marketing and preparing an assisted unit for occupancy while the unit is on the housing market but not rented to its first tenant.

(z) "Rental housing development" means a development of five or more rental or limited equity housing cooperative units on one or more sites and includes a mobilehome park with five or more mobilehome units, a group home, and a residential hotel.

(aa) "Residential hotel" means any building which contains six or more residential hotel units where a majority of the units are residential hotel units.

(bb) "Residential hotel unit", also referred to as a "single room occupancy" unit or an SRO, means a room used for sleeping purposes that:

(1) is occupied as a primary residence,

(2) lacks, in the unit itself, either or both a kitchen or bathroom, and

(3) is subject to state landlord-tenant law pursuant to chapter 2 (commencing with section 1940) of title 5 of part 4 of division 3 of the Civil Code.

(cc) "RHCP" means the Rental Housing Construction Program.

(dd) "Rural area" means the same as defined in section 50101 of the Health and Safety Code.

(ee) "Single room occupancy" unit or "SRO" means the same as "residential hotel unit."

(ff) "Very low-income household" means persons or families as defined in section 50105 of the Health and Safety Code.

(gg) "Very low-income nonassisted unit" means a lower income nonassisted unit in which occupancy is limited to very low-income households and rents are limited to an amount not exceeding thirty percent of the maximum income for a very low-income household, less a reasonable utility allowance.

(hh) "Very low-income unit" means an assisted unit designated for occupancy or occupied by a very low-income household.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 33007.5, 50010, 50079.5, 50735, 50736, 50766, 50771.1, 50771.2, 50894, 53130 and 53133, Health and Safety Code. Sections 7260, 7261, 7262, 7264, 7264.5, 7269, 7269.1, 7272 and 7272.3, Government Code.

HISTORY

1. New section filed 12-29-89 as an emergency; operative 12-29-89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4-30-90.
2. New section refiled 4-26-90 as an emergency; operative 4-26-90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8-24-90.
3. New subsections (n) and (cc) filed 7-23-90 as an emergency; operative 7-23-90 (Register 90, No. 39). A Certificate of Compliance must be transmitted to OAL by 11-20-90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. New subsections (n) and (cc) refiled 11-16-90 as an emergency; operative 11-16-90 (Register 91, No. 1). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. New section refiled 12-19-90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12-19-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4-18-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-16-90 and 12-19-90 orders transmitted to OAL 1-4-91; disapproved by OAL 2-4-91 (Register 91, No. 13).
8. New section refiled 2-20-91 as an emergency; operative 2-20-91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6-17-91 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 6-14-91 order including amendment of section transmitted to OAL 5-15-91 and filed 6-14-91 (Register 91, No. 38).

Article 2. Program Requirements

§ 8077. Eligible Project.

(a) To be eligible for funding, a proposed project must involve the development and construction of a new rental housing development.

(b) Except as specified in subdivision (c), proposed projects are ineligible if construction work, excluding:

(1) site improvements intended for public dedication,

(2) demolition,

(3) site preparation, and

(4) grading, has begun prior to the date that the department awards a commitment of program funds.

(c) Where construction work, other than that allowed pursuant to subdivision (b), has begun on the rental housing development prior to the date that the Department awards a commitment of program funds, proposed projects are eligible only under the following circumstances:

(1) construction has been halted, and the project property has been foreclosed upon or is in foreclosure;

(2) construction has been halted, and the project property has been deeded to a lender in lieu of foreclosure; or

(3) construction has been halted, and there is a substantial likelihood that a lender will initiate foreclosure due to the inability of the project's developer to complete construction.

(d) Proposed projects involving the demolition of residential rental units are eligible only under the following circumstances:

(1) the units to be demolished are substandard, and not economically feasible to rehabilitate or if the number of assisted units in the new project is at least twice the total number of units in the demolished structures; and

(2) the sponsor complies with the relocation requirements set forth in section 8091.

(e) To be eligible for funding, a proposed group home project must have the support of the local official responsible for services to the designated tenant population, such as the Mental Health Director or Regional Center Director, in the jurisdiction in which the proposed project is located, and must be designated by the local official as being an intrinsic part of that agency's established social service delivery system.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50010, 50735 and 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12-29-89 as an emergency; operative 12-29-89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4-30-90.
2. New section refiled 4-26-90 as an emergency; operative 4-26-90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8-24-90.
3. Amendment of subsection (d) filed 7-23-90 as an emergency; operative 7-23-90 (Register 90, No. 39). A Certificate of Compliance must be transmitted to OAL by 11-20-90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.

5. Amendment of subsection (d) refiled 11-16-90 as an emergency; operative 11-16-90 (Register 91, No. 1). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. New section refiled 12-19-90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12-19-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4-18-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-16-90 and 12-19-90 orders transmitted to OAL 1-4-91; disapproved by OAL 2-4-91 (Register 91, No. 13).
8. New section refiled 2-20-91 as an emergency; operative 2-20-91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6-17-91 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 6-14-91 order transmitted to OAL 5-15-91 and filed 6-14-91 (Register 91, No. 38).

§ 8078. Eligible Sponsor.

(a) A sponsor shall be any individual, joint venture, partnership, limited partnership, trust, corporation, limited equity housing cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof which is certified by the department as meeting the requirements of subdivision (c).

(b) A sponsor shall be organized on a for-profit, including limited profit, or nonprofit basis.

(c) In order to be certified as eligible for funding, an applicant must be a sponsor who must:

(1) demonstrate ability or experience relevant to owning, developing, constructing, and operating rental housing through any of the following:

(A) prior ownership, development, construction and operation of rental housing;

(B) employment of a staff with demonstrated ability or experience owning, developing, constructing and operating rental housing; or

(C) contracting with a consultant or consultants with demonstrated ability or experience assisting with the owning, development, construction and operation of rental housing; and

(2) have site control of the proposed project property by one of the following:

(A) fee title;

(B) a leasehold interest on the project property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with all program requirements;

(C) an option to purchase or lease;

(D) a disposition and development agreement with a public agency;

(E) a land sales contract, or other enforceable agreement for the acquisition of the property.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50010, 50735 and 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12-29-89 as an emergency; operative 12-29-89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4-30-90.
2. New section refiled 4-26-90 as an emergency; operative 4-26-90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8-24-90.
3. New section refiled 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12-19-90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12-19-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4-18-91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-19-90 order transmitted to OAL 1-4-91; disapproved by OAL 2-4-91 (Register 91, No. 13).
6. New section refiled 2-20-91 as an emergency; operative 2-20-91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6-17-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6-14-91 order including amendment of subsections (a), (b) and (c) transmitted to OAL 5-15-91 and filed 6-14-91 (Register 91, No. 38).

§ 8079. Eligible Uses of Funds.

(a) Funds shall be used only for approved eligible costs that are incurred on the project as set forth in this section. In addition, the costs must be necessary and must be consistent with the lowest reasonable cost consistent with the project's scope and area.

(b) Eligible categories of costs include the following:

(1) land acquisition;

(2) acquisition of projects under construction satisfying the requirements of section 8077(c);

(3) land lease payments;

(4) construction work;

(5) offsite improvements, such as sewers, utilities and streets, related to the rental housing development;

(6) onsite improvements related to the rental housing development;

(7) architectural, appraisal, engineering, legal and other consulting costs and fees, which are directly related to the planning and execution of the project and which are incurred through third-party contracts;

(8) administrative expenses pursuant to section 8085;

(9) rent-up costs;

(10) carrying costs during construction, including insurance, construction financing fees and interest, taxes, and any other expenses necessary to hold the property while the rental housing development is under construction;

(11) building permits and state and local fees;

(12) initial operating reserve balances required pursuant to section 8102;

(13) escrow, title insurance, recording and other related costs;

(14) costs for items intended to assure the completion of construction, such as contractor bond premiums; and

(15) environmental hazard reports, surveys, and investigations.

(c) Except where required to secure local government approvals essential to completion of the project, costs associated with the following items are ineligible for funding with program loan proceeds, and cannot be paid for from syndication proceeds or loans supported by rents from assisted units:

(1) building and roof shapes, ornamentation, and exterior finish schemes whose costs are in excess of the typical costs of these features in modestly designed rental housing;

(2) fireplaces, tennis courts, and similar amenities not typically found in modestly designed rental housing;

(3) shake and tile roofs, custom-made windows, ceramic tile floors and counters, hardwood floors, and similar features using materials not typically found in modestly designed rental housing, except where such materials have lower life-cycle costs due to lower operating, maintenance and replacement costs.

(d) No program funds shall be used for costs associated exclusively with nonassisted units or commercial space. If only a portion of the rental housing development consists of assisted units, the program loan amount shall not exceed the sum of the following:

(1) the costs of all items specified in subdivision (b) associated exclusively with the assisted units;

(2) a share of the costs of common areas used primarily by residential tenants. This share shall be in direct proportion to the ratio between the gross floor area of the assisted units and the gross floor areas of all residential units; and

(3) a share of the cost of other items, such as roofs, that cannot specifically be allocated to assisted units, nonassisted units, or commercial space. This share shall be in direct proportion to the ratio between

(A) the gross floor area of the assisted units, plus a share of the gross floor area of common areas used primarily by residential tenants in direct proportion to the ratio between the gross floor area of the assisted units and the gross floor area of all units; and

(B) the total gross floor area of the structure or structures.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50735, 50736, 50771.1 and 53133, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsections (a), (b) and (d) transmitted to OAL 5–15–91 and filed 6–24–91 (Register 91, No. 38).

§ 8080. Type and Term of Loan.

(a) Sponsors shall elect to receive program financing as either combination construction and permanent loans or permanent loans only.

(b) The initial term of the loan shall be 40 years, commencing on the date of initial occupancy of an assisted unit.

(c) Upon request by the sponsor, the department shall approve an initial loan term longer than that set forth in subdivision (b) provided that such longer term does not exceed the useful life of the rental housing development as determined by the department utilizing assessments provided by professionals from the construction and real estate industries, such as the conclusions of an appraiser or a structural engineer.

(d) Upon request by the sponsor, the department may approve a ten–year extension of the loan term if the department determines both of the following are met:

(1) The sponsor is in compliance with the Regulatory Agreement and agrees to continue to comply during the extended term; and

(2) The extension is necessary to continue operations consistent with program requirements.

(e) The department may condition the extension on such terms as it deems necessary to ensure compliance with the requirements of this program.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50766 and 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
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5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsections (a), (c) and (d) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8081. Maximum Loan Amounts.

The loan amount is limited to the total amount of eligible costs required, when considered with other available financing and assistance, in order to achieve all of the following:

(a) to enable the development and construction of the rental housing development;

(b) to ensure that rents for assisted units are in accordance with program requirements;

(c) to operate in compliance with all other program requirements; and

(d) to allow a debt service coverage ratio in an amount sufficient to satisfy the requirements of other lenders providing financing for the rental housing development, but not to exceed 115 percent.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
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7. Certificate of Compliance as to 6–14–91 order transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8082. Interest Rate and Loan Repayments.

(a) Loans shall bear simple interest of three percent per annum on the unpaid principal balance. Interest shall accrue from the date that funds are disbursed by the department to or on behalf of the sponsor.

(b) Accrued interest shall be payable out of operating income remaining after payment of approved operating expenses, debt service on other loans, reserve deposits, and sponsor distributions. Such interest, to the extent it is available, shall be payable to the department commencing on the last day of the initial operating year and continuing on each anniversary date thereafter until the loan is paid in full.

(c) Upon request by the sponsor, at the time of application or any time thereafter, the department shall approve the deferral of accrued interest for such periods and subject to such conditions as are necessary to enable the sponsor to maintain affordable rents, maintain the fiscal integrity of the project and pay allowable distributions pursuant to section 8089.

(d) Upon request by the sponsor, the department shall permit payments of a portion of the program loan principal annually following approval of the annual report required pursuant to section 8101, provided that the resulting additional debt service will not jeopardize the fiscal integrity of the project or the sponsor's ability to maintain rents in accordance with program requirements. The department shall approve a schedule for such principal payments at loan closing or any time thereafter, subject to the following:

(1) The schedule shall be based on actual or projected net cash flow which shall be calculated by subtracting from operating income the sum of the amounts necessary for project fiscal integrity plus the amount of allowable distributions pursuant to section 8089.

(2) The schedule may include provision for incentive payments to the sponsor. Such payments to the sponsor shall be in addition to the sponsor's permitted distribution pursuant to section 8089, and shall be allowed only after payment in full of all interest, including deferred interest, accrued on the program loan. The amount of such payments to the sponsor for a particular year shall not exceed the lesser of

(A) the amount of payments applied to the program loan principal for that year; or

(B) twice the amount of sponsor distributions allowed pursuant to section 8089(b)(1), where this subdivision is applicable, or twenty-four percent of the sponsor's actual investment in the assisted units, where it is not.

(e) Commencing thirty years from the date of the loan, the sponsor shall make annual payments of interest and principal as follows:

(1) If the loan term, including any extensions, is fifty years or more, the amount of such payments shall not be less than one-half of net cash flow until the loan is paid in full. Net cash flow shall be calculated as described in subsection (d)(1).

(2) If the loan term, including any extensions, is less than fifty years, the amount of such payments shall be the lesser of

(A) the full amount of net cash flow, calculated as described in subsection (e)(1); or

(B) that amount required to fully amortize the loan during its remaining term.

(f) All program loan payments shall be applied first to interest and second to principal.

(g) The total amount of the outstanding principal and interest, including deferred interest, shall be due and payable in full to the department at the end of the loan term including any extension granted by the department.

(h) Upon request by the sponsor, and providing that any additional resulting debt service will not jeopardize the fiscal integrity of the project or the sponsor's ability to maintain rents in accordance with program requirements, the Department may establish an interest rate for the program loan exceeding three percent.

(i) For purposes of this section only, and for projects where distributions from nonassisted units are not limited, in accordance with section 8089(b)(2), operating income shall not include income attributable to nonassisted units or commercial space, and fiscal integrity shall be evaluated without consideration of income or expenses attributed to nonassisted units or commercial space.

NOTE: Authority cited: Sections 50771.1 and 50771.2, Health and Safety Code. Reference: Sections 50771.1 and 50771.2, Health and Safety Code.

HISTORY

1. New section filed 12-29-89 as an emergency; operative 12-29-89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4-30-90.
2. New section refiled 4-26-90 as an emergency; operative 4-26-90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8-24-90.
3. New section refiled 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
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5. Certificate of Compliance as to 12-19-90 order transmitted to OAL 1-4-91; disapproved by OAL 2-4-91 (Register 91, No. 13).
6. New section refiled 2-20-91 as an emergency; operative 2-20-91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6-17-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6-14-91 order including amendment of subsections (c) and (d) transmitted to OAL 5-15-91 and filed 6-14-91 (Register 91, No. 38).

§ 8083. Appraisal and Market Study Requirements.

(a) As a condition of funding, the department shall require an appraisal or market study, or both, where required to achieve the following objectives:

(1) To establish a market value for the land to be purchased or leased as part of the project for purposes of evaluating the reasonableness of the purchase price or lease terms pursuant to section 8079 and determining sponsor equity pursuant to section 8084.

(2) To assist with establishing reasonable costs for other development cost categories pursuant to section 8079.

(3) To assess fiscal integrity.

(b) Any appraisal required by the department shall be prepared at the sponsor's expense by an individual who

(1) has the knowledge and experience necessary to appraise income property competently;

(2) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal; and

(3) in reporting the results of the appraisal, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property.

(c) Any market study required by the department shall be prepared at the sponsor's expense by an individual who:

(1) has the knowledge and experience necessary to conduct a market study for rental property competently;

(2) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible market study; and

(3) in reporting the results of the market study, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12-29-89 as an emergency; operative 12-29-89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4-30-90.
2. New section refiled 4-26-90 as an emergency; operative 4-26-90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8-24-90.
3. New section refiled 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
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5. Certificate of Compliance as to 12-19-90 order transmitted to OAL 1-4-91; disapproved by OAL 2-4-91 (Register 91, No. 13).
6. New section refiled 2-20-91 as an emergency; operative 2-20-91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6-17-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6-14-91 order including amendment of subsection (a) and new subsection (c) transmitted to OAL 5-15-91 and filed 6-14-91 (Register 91, No. 38).

§ 8084. Minimum Equity Requirements.

(a) Sponsors of projects where more than 80 percent of all units are assisted units must provide equity in an amount not less than ten percent of total development costs, excluding costs of syndication. Sponsors of other projects shall not be subject to any minimum equity requirement.

(b) Equity, for purposes of this subdivision, includes cash and land, whether contributed by the sponsor from its own resources or granted to the sponsor by another party. Equity also includes other items of monetary value contributed by the sponsor and applied towards project costs, including

(1) personal property;

(2) the capitalized value of any exemption from local taxes on real property. The amount of the exemption shall be established by the department prior to loan closing based on its estimate of the probable assessed value of the rental housing development and its interpretation of state law governing eligibility for exemptions, as set forth in Revenue and Taxation Code section 214, et seq.; and

(3) the value of any administrative expenses not funded by the program, but which would have been eligible for funding pursuant to section 8085(d).

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
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5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (b) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8085. Administrative Expenses.

(a) Administrative expenses are those expenses incurred by the sponsor related to the planning and execution of the project prior to initial occupancy. Such expenses include, but are not limited to the following:

(1) salaries, wages, and related costs of the sponsor's staff engaged in the planning and execution of the project, including general legal services, accounting and auditing relating to the sponsor's operations, and financial packaging;

(2) travel costs and other general overhead costs which are attributable to the project;

(3) expenses for sponsor's administrative services performed and paid for under third–party contracts.

(b) Administrative expenses do not include those legal, architectural, engineering, or financial fees which are directly related to the planning and execution of the project and which are incurred by the sponsor through third–party contracts eligible for funding pursuant to section 8079(b)(7).

(c) Sponsors seeking program funds for administrative expenses shall include in their application a statement of administrative expenses incurred to date, and a budget for anticipated administrative expenses. The statement and budget shall include sufficient detail and explanation to permit the department to determine eligibility and reasonableness of the expenses. The department shall include in the loan amount those administrative expenses shown in the statement and anticipated budget provided it determines that those expenses are reasonable and necessary considering the nature and scope of the project.

(d) Administrative expenses in amounts equal to or less than the maximum amounts shown in the following schedule shall be deemed reasonable and necessary upon certification by the sponsor that they have been incurred.

Approved Program Loan Amount	*Maximum Administrative Expenses*
Up to $500,000	5% of the approved program loan amount
Over $500,000	$25,000 plus 1% of the approved program loan amount over $500,000, up to a maximum of $50,000

(e) The department shall not fund administrative expenses in excess of 10 percent of the approved loan amount unless the sponsor can demonstrate to the department's satisfaction that costs in excess of this limitation are the result of expenses for architectural, engineering, and legal services, which would otherwise qualify for funding as consultant services pursuant to section 8079(b)(7).

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
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7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (c) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8086. Occupancy Requirements.

(a) In each rental housing development assisted by the program, and for the full term of the program loan, the following requirements shall apply:

(1) Not less than thirty percent of all units shall be assisted units.

(2) Not less than two–thirds of the assisted units shall be very low–income units.

(b) Assisted units shall not differ substantially in size or amenity level from nonassisted units with the same number of bedrooms, and lower income units shall not differ from very low–income units. Assisted units shall not be segregated from nonassisted units, and very low–income units shall not be segregated from lower income units. Within these limits, sponsors may change the designation of a particular unit from assisted to nonassisted, or lower income to very low–income, and vice versa, over time.

(c) The number, size, type, and amenity level of lower income and very low–income units shall not be fewer than the number nor different from the size, type and amenity level described in the Regulatory Agreement for the full loan term.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50736 and 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
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6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (c) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8087. Tenancy Standards.

(a) Sponsors shall select only eligible households as tenants of assisted units, and shall annually verify household income and size to determine continued eligibility. As part of the management plan required by section 8100(d), the sponsor shall develop a tenant selection plan for assisted units which shall be subject to the approval of the department. Any

change to the plan shall be subject to the approval of the department. The plan shall include the following:

(1) an affirmative marketing plan for eligible households which shall include policies and steps to ensure equal access to all housing units in the rental housing development for all persons in any category protected by federal, state or local laws governing discrimination. Where a significant number of persons in the area of the rental housing development have limited fluency in English, the plan shall require that publications implementing the affirmative marketing plan be provided in the native language of those persons.

(2) reasonable criteria for selection or rejection which shall not discriminate in violation of any federal, state or local laws governing discrimination, or any other arbitrary factor.

(3) prohibition of local residency requirements.

(4) tenant selection procedures that include the following requirements:

(A) selection of tenants based on order of application, lottery or other reasonable method approved by the department;

(B) notification to tenant applicants of eligibility for residency and, based on turnover history, for units in the rental housing development, and the approximate date when a unit may be available;

(C) notification of tenant applicants of ineligibility to occupy an assisted unit and the reason for the ineligibility and their right to appeal this determination pursuant to section 8087(e); and

(D) maintenance of a waiting list of eligible households applying to occupy assisted units and if applicable, distinguish between lower- and very low-income applicants.

(5) tenant occupancy standards that shall be used by the sponsor upon both initial occupancy and recertification to determine a tenant's unit size, as follows:

Unit	*No. of Persons in Household*	
Size	*Minimum*	*Maximum*
SRO	1	2
0-BR	1	2
1-BR	1	3
2-BR	2	5
3-BR	4	7
4-BR	6	9
5-BR	8	11

(A) Flexibility for assignment by a sponsor to a different sized unit is permitted if the sponsor reasonably determines that special circumstances warrant such an assignment and the reasons are documented in the tenant's file.

(B) If at the time of recertification, the tenant's household size has changed and no longer meets the occupancy standards pursuant to this subdivision, tenant household shall be required to move to the next available appropriately sized unit pursuant to this subdivision.

(b) Upon prior written approval by the department, the sponsor may set income limits for lower income units at a level below the upper limit for lower-income households.

(c) In limited equity housing cooperatives, share purchase terms for assisted-units shall be limited as follows:

(1) the total share purchase price for the initial occupant shall be not less than two months carrying costs and not more than five percent of the prorated development cost of the unit.

(2) share appreciation upon resale shall be at a rate approved by the department not to exceed eight percent of the paid-in portion of the share purchase price per annum.

(3) for lower-income households, the required cash contribution to be applied towards the total share purchase price upon initial occupancy shall not exceed 2.5 percent of the prorated development cost of the unit, plus allowed appreciation. For very low-income households, the required cash contribution shall not exceed ten percent of the household's income over the twelve months prior to occupancy.

(4) the sponsor may loan members of the cooperative the difference between the total share purchase price and the member's initial cash contribution. The terms and conditions of such loans shall be subject to department approval.

(d) The sponsor shall submit for department approval the form of the rental or occupancy agreement for assisted units prior to its use. The form shall include the following:

(1) provisions requiring good cause for termination of tenancy. One or more of the following constitutes "good cause":

(A) failure by the tenant to maintain eligibility under the program;

(B) material noncompliance by the tenant with the lease, including one or more substantial violations of the lease or habitual minor violations of the lease which

1. adversely affect the health and safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities;

2. substantially interfere with the management, maintenance, or operation of the rental housing development;

3. result from the failure or refusal to pay, in a timely fashion, rent or other permitted charges when due. Failure or refusal to pay in a timely fashion is a minor violation if payment is made during the three-day notice period.

(C) material failure by the tenant to carry out obligations under state or local law; or

(D) subletting, by the tenant, of all or any portion of the assisted unit;

(E) any other action or conduct of the tenant constituting significant problems which can be reasonably resolved only by eviction of the tenant, provided that the sponsor has previously notified the tenant that the conduct or action in questions would be considered cause for eviction. Examples of action or conduct in this category include the refusal of a tenant, after written notice, to accept reasonable rules or any reasonable changes in the lease or the refusal to recertify income or household size;

(2) a provision requiring that the facts constituting the grounds for any eviction be set forth in the notice provided to the tenant pursuant to state law;

(3) notice of grievance procedures for hearing complaints of tenants and appeal of management action; and

(4) a requirement that the tenant annually recertify household income and size.

(e) The sponsor shall adopt an appeal and grievance procedure to resolve grievances filed by tenants and appeals of actions taken by sponsors with respect to tenants' occupancy in the rental housing development and prospective tenants' applications for occupancy.

(1) the appeal and grievance procedure shall be included in the sponsor's management plan described in section 8100(d) and shall, at a minimum, include the following:

(A) a requirement for delivery to each tenant and applicant of a written copy of the appeal and grievance procedure;

(B) procedures for informal dispute resolution;

(C) a right to a hearing before an impartial body, which shall consist of one or more persons, with the power to render a final decision on the appeal or grievance;

(D) procedures for the conduct of such hearing and the appointment of the impartial hearing body. The procedures shall include the right to present evidence without regard to formal rules of evidence, the right to be represented by any other person and the right to a written decision from the hearing body. The decision of the hearing body shall be based solely on evidence presented at the hearing; and

(E) a requirement that the sponsor extend any time period imposed pursuant to a formal eviction procedure, including any filing in a court of competent jurisdiction, during the pendency of the hearing.

(2) Neither utilization of nor participation in any of the appeal and grievance procedures shall constitute a waiver of or affect the rights of the tenant, prospective tenant, or sponsor to a trial de novo or judicial review in any judicial proceeding which may thereafter be brought in the matter.

(f) If, at the time of recertification, the tenant's household income exceeds the upper limit for lower–income households, the tenant's lease for the unit as an assisted unit shall terminate six months after the date of recertification.

(1) In rental housing developments containing nonassisted units, the tenant shall have the right of first refusal for any available nonassisted unit of a size consistent with the occupancy standards set forth in section 8087(a)(5). This right shall begin upon recertification and shall expire upon termination of the tenant's lease of the assisted unit.

(2) If the tenant provides to the sponsor additional evidence which establishes income eligibility prior to the expiration of the tenant's lease, the tenant's lease shall not be terminated.

(3) The sponsor may approve one additional six–month extension of the lease if the project:

(A) is located in a market area where the vacancy rate for rental housing is less than five percent; and

(B) is located is an area where the Fair Market Rent exceeds the average of the Fair Market Rents for all metropolitan statistical areas in California. For purposes of this subsection, "Fair Market Rent" means the most current fair market rent for existing housing for two–bedroom units, as published annually in the "Federal Register" by the U.S. Department of Housing and Urban Development pursuant to section 8(c)(1) of the United States Housing Act of 1937.

(4) If the assisted unit is subject to state or federal rules governing low–income housing tax credits, as referenced in section 10300, title 4, California Code of Regulations, those eligibility provisions shall govern continued eligibility for occupancy.

(5) In a limited equity housing cooperative where the household income of a cooperative member occupying an assisted unit exceeds the upper limit for lower income households, the member shall not be required to vacate the assisted unit.

(A) After recertification and determination of ineligibility, the sponsor shall immediately notify the member that the carrying charge will increase to a market rate payment six months after said notification. Market rate payment shall be the carrying charge paid for a comparable nonassisted unit, without an allowance for utilities, or where there are no comparable nonassisted units, the rent charged for comparable units in the area. This market rate payment shall be subject to department approval.

(B) The next available membership share for occupancy in a comparable unit shall be sold to an eligible household until the mix between lower– and very low–income units required by the Regulatory Agreement is achieved.

(6) If the tenant's income exceeds the limit for lower–income units established by the sponsor pursuant to subdivision (b), but remains below the lower–income limit, that fact alone shall not be cause for termination of the tenant's lease or for requiring the tenant to vacate their unit.

(g) If the income of a household residing in a very low–income unit changes from very low–income to other lower–income at the time of recertification, the following shall apply:

(1) The household shall not be required to vacate the unit;

(2) The sponsor shall charge rent that does not exceed the current rent allowed for any comparable lower–income unit pursuant to section 8088, or where there are no such units, the maximum rent which would be allowed pursuant to section 8088;

(3) The sponsor shall designate the unit as a lower–income unit; and

(4) The sponsor shall designate the next available comparable assisted unit as a very low–income unit until the mix between lower–income and very low–income units required by the Regulatory Agreement is achieved.

(5) In a limited equity housing cooperative, where the tenant member in a very low–income unit becomes an other lower–income household, the sponsor shall comply with the provisions of subdivisions (g)(1) through (g)(4).

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 33007.5, 50010, 50736, 50079.5, 50771.1 and 50894, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsections (a), (b), (c), (d), (e), (f) and (g) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).
8. Editorial correction of printing error in subsections (a)(5) changing O to 0; (f)(B)(6) and HISTORY 7 (Register 91, No. 46).

§ 8088. Rent Standards.

(a) The department shall establish initial rents for assisted units in each project in accordance with the tables in section 6932 and the following:

(1) At the time of the initial occupancy of a unit, rents for very low–income units, and for units in residential hotels and group homes, shall not exceed 30 percent of 35 percent of area median income, divided by 12, adjusted by unit size pursuant to subdivision (a)(3), and with an allowance for utility costs pursuant to subdivision (a)(4). The unit size adjustment in subdivision (a)(3) is employed by identifying the size of the unit for which rent must be determined and reading across to determine the applicable household size for that unit. Area median income is determined by selecting from the tables provided in section 6932 for the county in which the unit is located, the amount of income provided as the very low–income standard for the "number of persons in the family," which equates with the "applicable household size" identified in subdivision (a)(3).

(2) Except for residential hotel units and rooms in group homes, at the time of the initial occupancy of a unit, rents for lower–income units shall not exceed 30 percent of 60 percent of area median income, divided by 12, adjusted by unit size pursuant to subdivision (a)(3), and with an allowance for utility costs pursuant to subdivision (a)(4). The unit size adjustment in subdivision (a)(3) is employed by identifying the size of the unit for which rent must be determined and reading across to determine the applicable household size for that unit. Area median income is determined by selecting from the tables provided in section 6932 for the county in which the unit is located, the amount of income provided as the lower–income standard for the "number of persons in the family," which equates with the "applicable household size" identified in subdivision (a)(3).

(3) Maximum rent calculated pursuant to (a)(1) and (a)(2) above shall be adjusted by unit size as follows:

Unit Size	*Applicable Household Size to Determine Rent Limit*
residential hotel unit or 0 bedroom	1 person
group home bedroom with one occupant	1 person
group home bedroom with two occupants	1 person (Maximum rent shall be twice the maximum rent for bedrooms with one occupant.)
1 bedroom	2 persons
2 bedrooms	3 persons
3 bedrooms	4 persons
4 bedrooms	6 persons
5 bedrooms	8 persons

(4) The maximum rent to be charged to tenants shall be determined by deducting from the maximum amounts calculated pursuant to (a)(1), (a)(2) and (a)(3) a utility allowance for the appropriate unit size. Where a tenant does not directly pay for utilities, the utility allowance deduction shall be zero. The utility allowance shall be the allowance for monthly utility costs made or approved by the U.S. Department of Housing and Urban Development pursuant to 24 CFR section 813.102. In order to obtain the current utility allowances for cities and unincorporated areas located in the following counties, please contact the Department of Housing and Community Development, Attention: Housing Assistance Program, Post Office Box 952054, Sacramento, CA 95252-2054 or phone (916) 324-7696:

Amador	Modoc
Calaveras	Mono
Colusa	Nevada
El Dorado	Placer
Glenn	Sierra
Inyo	Siskiyou
Lassen	Trinity
Lake	Tuolumne
Mendocino	

Utility allowances for the balance of cities and unincorporated areas in California not located in the above noted counties may be obtained by contacting the Housing Authority established for that county pursuant to section 34240 of the Health and Safety Code.

(5) Upon demonstration by the sponsor that the amount of utility costs per unit anticipated for the proposed project differs from the amount of the utility allowance per unit derived pursuant to the preceding subdivision, the department shall allow as a utility allowance use of the utility cost per unit demonstrated by the sponsor. The demonstration by the sponsor shall consist of the submittal of actual utility usage cost data per unit for an existing project constructed within the last five years; of the same type of construction as the proposed project; and with the same type of tenant population as the proposed project.

(6) As used in this section "rent" does not include any payment to a sponsor under section 8 of the United States Housing Act of 1937 or any comparable federal or state rental assistance program.

(b) After the initial operating year, rents in assisted units may be adjusted no more often than annually. The amount of adjustment for assisted units shall be in accordance with the following:

(1) Rents may be increased at a rate not to exceed the most recent annual average percentage change in the Western Region for residential rents for all urban consumers as published by the United States Department of Labor, Bureau of Labor Statistics in the monthly publication, "CPI Detailed Report," multiplied by the ratio of the previous year's budgeted operating expenses attributed to assisted units plus required reserves attributed to assisted units to the previous year's budgeted operating income attributed to assisted units.

(2) In addition to the rent increase allowed pursuant to subdivision (b)(1), rents shall be increased by an amount not to exceed the amount necessary to increase the operating income to cover changes in debt service:

(A) on an adjustable rate mortgage approved by the department as part of the project; or

(B) resulting from a refinancing approved by the department and required to maintain fiscal integrity.

(3) Notwithstanding the provisions of subdivisions (b)(1) and (b)(2), rents shall be decreased, or the amount of the otherwise allowable increase reduced, if there is a reduction in the amount of required payments on an adjustable rate mortgage on the project due to a decrease in the interest rate for that mortgage. The aggregate monthly amount of this rent decrease, or reduction in an otherwise allowable increase, shall be equal to the amount of the monthly payment reduction attributable to assisted units;

(4) Any rent adjustment at the end of the initial operating year shall be prorated based on the length of the initial operating year.

(c) The sponsor shall be allowed to implement a greater rent increase if the sponsor can demonstrate, to the department's satisfaction, that the increase is necessary to pay for unusual or unforeseeable increases in costs related to the assisted units and to preserve fiscal integrity. The sponsor shall not receive a greater rent increase on the grounds that fiscal integrity is threatened by a shortfall in income, unanticipated expenses or other financial problems attributable to commercial space or nonassisted units.

(d) Any allowable rent increase or portion thereof not implemented by the sponsor in any given year shall not be accumulated for implementation in subsequent years.

(e) Where the assisted units are rent restricted as a condition of the low-income housing tax credit or other state and federal rent subsidy programs, the initial rent for assisted units and subsequent rent increases shall be the lower of those permitted under subdivisions (a), (b), or (c), or those permitted under the applicable tax credit or other programs.

(f) The sponsor shall submit requests for rent adjustments pursuant to subdivision (c) above as part of the annual operating budget pursuant to section 8102.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12-29-89 as an emergency; operative 12-29-89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4-30-90.
2. New section refiled 4-26-90 as an emergency; operative 4-26-90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8-24-90.
3. New section refiled 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12-19-90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12-19-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4-18-91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-19-90 order transmitted to OAL 1-4-91; disapproved by OAL 2-4-91 (Register 91, No. 13).
6. New section refiled 2-20-91 as an emergency; operative 2-20-91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6-17-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6-14-91 order including amendment of section transmitted to OAL 5-15-91 and filed 6-14-91 (Register 91, No. 38).

§ 8089. Limits on Distribution.

(a) A nonprofit corporation shall be limited to an annual distribution on the sponsor's actual investment in the entire project in an amount not to exceed eight percent per annum.

(b) A for-profit sponsor shall elect, prior to loan closing, to be limited in accordance with one of the following options:

(1) The sponsor shall be limited to an annual distribution on the sponsor's actual investment in the entire project in an amount not to exceed eight percent per annum; or

(2) The sponsor shall receive no distribution from assisted units, and shall not be subject to any limitations on the amount of the distribution it receives from nonassisted units.

(c) A sponsor may not accumulate distributions from year to year. A sponsor may deposit all or a portion of the amount permitted for distributions into a project account for distribution in subsequent years. Such future distributions shall not reduce the otherwise permitted distribution in those subsequent years.

(d) Actual investment, for the purposes of this section, includes cash and the market value of property contributed to the project by the sponsor. For projects receiving state or federal low-income housing tax credits, the amount of actual investment recognized by the department for the purpose of calculating allowable distributions shall not exceed fifteen percent of total project development costs. Actual investment does not include any payments of project funds to the sponsor. In syndicated projects, actual investment shall be calculated net of the costs of syndication, such as the syndicator's fee and syndication-related legal expenses.

(e) In its initial operating budget, the sponsor shall demonstrate to the department the amount of the sponsor's actual investment on which the allowable distribution will be calculated. The actual investment amount shall be increased in subsequent budgets upon a showing of additional actual investment advanced by the sponsor.

(f) Distributions shall be permitted only after the sponsor submits a complete annual report and operating budget and the department determines that the report and budget demonstrate compliance with all program requirements for the applicable year. Circumstances under which no distributions shall be made include:

(1) when written notice of default has been issued by any entity with an equitable or beneficial interest in the rental housing development;

(2) when the department determines that the sponsor has failed to comply with the department's written notice of any reasonable requirement for proper maintenance or operation of the rental housing development;

(3) if all currently required debt service and operating expenses have not been paid;

(4) if the replacement reserve account or any other reserve accounts are not fully funded pursuant to section 8102 and the Regulatory Agreement.

(h) Distributions attributed to income from commercial space shall not be subject to limits pursuant to this section.

(i) When operating income is greater than approved operating expenses, debt service, scheduled reserve deposits, approved prepayments, approved annual distributions, and any other disbursements approved by the department, then the department shall require that such excess be paid into the Emergency Reserve Account established pursuant to section 8103. For purposes of calculating the amount of excess funds pursuant to this subdivision, operating income and expenses shall not include income or expenses from commercial space, or, where the sponsor elects to have their return limited pursuant to subdivision (b)(2), from nonassisted units.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (e) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8090. Syndication.

(a) In the event that the project is syndicated during the term of the program loan for the purpose of receiving federal or state low income housing tax credits, the total amount of syndication proceeds retained by the sponsor, or any affiliates of the sponsor, in the form of fees or payments of any kind, shall not exceed 25 percent of net syndication proceeds. Net syndication proceeds shall be calculated by deducting from gross syndication proceeds all reasonable and ordinary costs of syndication, including accounting, printing, financial consultant, legal, interest and fees on gap financing used to pay development costs approved by the department, syndicator fee, and government fees associated with creating a limited partnership and securing tax credit allocations.

(b) Not less than 75 percent of any available net syndication proceeds shall be applied toward project development costs approved by the department, exclusive of any fees or payments retained by the sponsor or its affiliates, and, then, to the extent that funds are available, toward payment of program loan interest and principal.

(c) Upon demand by local public agencies that have contributed or loaned funds towards project development costs, net syndication proceeds that would otherwise be applied towards program loan payments may be allocated among these agencies and the department in amounts in direct proportion to the ratio between the amount of their contributions or loans and the amount of the program loan.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 including amendment of subsection (a) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8091. Relocation Requirements.

(a) The sponsor of a project resulting in displacement of residential tenants shall be solely responsible for providing the assistance and benefits set forth in this section, and shall agree to indemnify and hold harmless the department from any liabilities or claims for relocation related costs.

(b) All tenants in occupancy in a property who are permanently displaced as a direct result of the development of the project shall be entitled to relocation benefits and assistance as provided in sections 7260, 7261, 7262, 7264, 7264.5, 7269, 7269.1, 7272 and 7272.3 of the Government Code. Displaced tenants who are not eligible households under this program shall be provided relocation benefits and assistance from funds other than program funds.

(c) The sponsor shall prepare a relocation plan in conformance with the provisions of section 6038(b) of this title based on the scope of the project and the extent of anticipated displacement. The relocation plan shall be subject to the review and approval of the department prior to the disbursement of program funds.

(d) All eligible households who are permanently displaced as a direct result of the development of the project shall be entitled, upon initial occupancy of the rental housing development, to occupy assisted units meeting the tenant occupancy standards set forth in section 8087.

(e) All ineligible households who are permanently displaced as a direct result of the development of the project shall be entitled, upon initial occupancy of the rental housing development, to occupy any available nonassisted units.

(f) Notwithstanding the preceding subdivisions, tenants who are notified in writing prior to their occupancy of an existing unit that such unit may be demolished as a result of funding provided under the program shall not be eligible for relocation benefits and assistance under this sec-

tion. The form of any notices used for this purpose shall be subject to department approval.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 7260, 7261, 7262, 7264, 7264.5, 7269, 7269.1, 7272 and 7272.3, Government Code, and Sections 50771.1 and 53133, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsections (a), (b) and NOTE transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).
8. Editorial correction of printing error in subsection (c) (Register 91, No. 46).

§ 8092. Construction Requirements.

(a) The department shall review and underwrite project plans and specifications to ensure the following objectives:

(1) The rental housing development shall have a minimum useful life at least equal to term of the loan;

(2) Maintenance, repair, and replacement costs shall be minimized during the useful life of the rental housing development through use of durable, low maintenance materials and equipment and design features that minimize wear and tear.

(3) Operating costs shall be minimized during the useful life of the rental housing development.

(4) Tenant security shall be enhanced through features such as those designed to prevent or discourage unauthorized access and to allow for ready monitoring of public areas.

(5) Unit sizes, amenities, and general design features shall not exceed the standard for new developments rented at or below the market rent in the area of the project, and unit density shall not be substantially less than the average for new developments with such units.

(b) The sponsor shall ensure that the construction work for the project shall be performed in a competent, professional manner at the lowest reasonable cost consistent with the project's scope, design and locality and not in excess of the total funds available. The sponsor may demonstrate the reasonableness of the proposed cost by soliciting written bids based on a bid package distributed to potential contractors located in the general area of the rental housing development or by the use of other methods which adequately demonstrate to the department's satisfaction that the costs are reasonable. Such bid package or other method shall include at a minimum:

(1) complete plans and specifications for the work; and

(2) a full description of the program requirements for construction, including the required provisions of the construction contract.

(c) The sponsor shall enter into a written contract with the selected contractor. The contract shall be subject to the prior approval of the department to determine compliance with program requirements.

(d) The construction contract shall be a completely integrated agreement containing all the understandings, covenants, conditions and representations between the parties and, at a minimum, contain provisions which:

(1) require that the contractor complete the work in accordance with the plans and specifications approved by the department and applicable local, state and federal laws, regulations and building codes and standards;

(2) require the contractor to proceed with and complete the work in accordance with the schedule for work approved by the department;

(3) specify a total contract price consistent with the project budget approved by the department;

(4) provide for a method of payment to the contractor consistent with program requirements which shall include progress payments and retentions;

(5) require that the contractor provide a payment bond securing payment to persons providing goods or services to the project and a performance bond securing faithful completion of the work. Each bond shall be in an amount equal to 100 percent of the total contract price and include the department as a dual obligee. The department shall waive the payment and performance bond requirements, or reduce their scope, upon the sponsor's either:

(A) providing alternative security for payment and performance under the construction contract which is substantially equivalent to the bond requirements; or

(B) demonstrating that the bonds, or the full amount thereof, are not necessary to protect the interests of the department and ensure completion of the work;

(6) permit the sponsor and the department and their designated agents and employees the right to inspect the project site and all books, records and documents maintained by the contractor in connection with work;

(7) require the contractor to provide insurance coverage consistent with the program requirements and other applicable law;

(8) obligate the contractor to warrant the work for a period not less than one year;

(9) require that the contractor pay all amounts when due for labor, work performed under subcontract, or materials, supplies and equipment provided to the project;

(10) provide for the assignment of the construction contract to the department upon sponsor's breach of the Development Agreement;

(11) require that the contractor comply with state prevailing wage law, as set forth in Labor Code section 1720 et seq., where program funds are provided as construction financing.

(12) include such special conditions applicable to the construction contract as may have been imposed in connection with the department's approval of the project for funding.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (d) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

Article 3. Application Procedures

§ 8093. Application Process.

(a) The department shall issue a Notice of Funding Availability (NOFA) which specifies the schedule for rating and ranking applications and awarding funds every two months, the amount of funds available in each bimonthly cycle, application requirements, the allocation of rating points, and the general terms and conditions of funding commitments. Applications in response to each NOFA will be accepted on a continuous basis.

(b) Within 45 days of the receipt of an application, the department shall provide the applicant with written notice indicating whether the application is complete pursuant to section 8094 and eligible for rating and ranking pursuant to section 8095(a).

(1) If the application is not complete, but has not been determined to be ineligible for rating and ranking, the notice shall specify the information or documentation necessary to complete the application. Within 15 days of the receipt of any additional information or documentation from the applicant, the department shall provide the applicant with written notice indicating whether the additional information or documentation is sufficient to determine that the application is complete.

(2) If the application is not eligible for rating and ranking, the notice shall provide an explanation of the reasons for this determination.

(c) Funding decisions shall be based on a bimonthly rating and ranking of applications determined to be eligible for rating and ranking pursuant to subdivision (b).

(1) An application must be received by the department and determined to be complete and eligible for rating and ranking at least 45 days prior to the completion of the next scheduled rating and ranking to be assured of consideration in that rating and ranking.

(2) Within 15 days following the completion of each bimonthly rating and ranking, the department shall provide each applicant with a written notice indicating whether their application has been approved for funding. If an application is not approved, the notice shall include an explanation of the rating and ranking and the reasons for the disapproval.

(d) Projects selected for funding shall be approved at loan amounts, terms, and conditions specified by the department.

(e) In each fiscal year, not less than 20 percent of all program funds loaned shall be allocated to rural areas. In each fiscal year, elderly or physically handicapped households shall be allocated not less than 20 percent, nor more than 30 percent, of the assisted units provided by program funds. If necessary to satisfy these distribution requirements, the department shall do the following:

(1) issue a special NOFA for rural projects, or for projects with units available for occupancy by elderly or physically handicapped households;

(2) award bonus points to rural projects, or for projects with units available for occupancy by elderly or physically handicapped households;

(3) reserve a portion of funds specified in the NOFA for rural projects, or for projects with units available for occupancy by elderly or physically handicapped households.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50736 and 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. Amendment filed 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 31). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 14–26–90 or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 11–16–90 as an emergency; operative 11–16–90 (Register 91, No. 1). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–16–90 and 12–19–90 orders transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
8. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 6–14–91 order including amendment of subsection (e) and NOTE transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8094. Application Requirements.

(a) Application shall be made on form HCD 800, "Loan Application Rental Housing Construction Program," dated 12/90, as set forth in subsection (b). This form is provided by the department.

(b) HCD 800, "Loan Application Rental Housing Construction Program," dated 12/90:

HCD 800, (12/90)

LOAN APPLICATION
RENTAL HOUSING CONSTRUCTION PROGRAM

Project Name _____

Project Location _____

Applicant* _____

Address _____ County _____

Contact Person _____

_____

Applicant Telephone ( ) _____ FAX NO. ( ) _____

_____ (If available)

Consultant/Application Preparer _____

Consultant Telephone ( ) _____ FAX NO. ( ) _____

(If available)

*The applicant must be a currently organized legal entity.

General Instructions: Fill out the application completely. If an attachment is included with the application, check the "yes" column in the checklist below. If an attachment is not included, check "no" and note the reason on the "comments" line.

Please use labeled tabs for all attachments, organized according to this checklist, with attachments placed at the end of the complete application.

		YES	NO	COMMENTS
A. Project Summary				
No Attachments				
B. Applicant				
Attachment B1a	Partnership Agreement	____	____	_____
Attachment B1b	Financial Statements	____	____	_____
Attachment B1c	Resolution	____	____	_____
Attachment B3	Applicant's Staff	____	____	_____
Attachment B4	Development	____	____	_____
Attachment B5	Property Management	____	____	_____
Attachment B6c	Funding of Services	____	____	_____
Attachment B7	Local Official Support	____	____	_____
Attachment B8	Project Experience	____	____	_____
C. Project Cash Flow Analysis				
Attachment C2	Operating Expenses	____	____	_____
D. Development Budget				
No Attachments				

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		YES	NO	COMMENTS
E. Project Financing				
Attachment E1	Sources and Uses	____	____	_____
Attachment E2a	Loan Commitments	____	____	_____
Attachment E2b	Grant Commitments	____	____	_____
Attachment E2c	Owner Contributions	____	____	_____
Attachment E2d	Syndication	____	____	_____
F. Site Information				
Attachment F2	Site Control	____	____	_____
Attachment F3	Preliminary Title Report	____	____	_____
Attachment F4	Land Sales Comparables	____	____	_____
Attachment F6	Vicinity Map	____	____	_____
Attachment F9	Toxics	____	____	_____
Attachment F10	Utilities	____	____	_____
Attachment F11	Soils Report	____	____	_____
Attachment F12	Off–Site Improvements	____	____	_____
G. Local Government Approvals				
Attachment G1	Zoning	____	____	_____
Attachment G2	Conditional Use Permit	____	____	_____
Attachment G3	Parcel Map	____	____	_____
Attachment G4	Article XXXIV	____	____	_____
Attachment G6	Local Government Letter	____	____	_____
H. Unit Construction				
Attachment H2	Demolition/Relocation	____	____	_____
Attachment H8	Plans	____	____	_____
Attachment H9	Design Features	____	____	_____
I. Project Timeline				
No Attachments				
J. Local Need & Assistance				
Attachment J1a	Waiting Lists	____	____	_____
Attachment J1b	Typical Rents	____	____	_____
Attachment J1c	Typical Vacancy Rate	____	____	_____
Attachment J1d	High Devt. Costs Areas	____	____	_____
Attachment J2	Local Assistance	____	____	_____
Attachment J3	Housing Plan	____	____	_____

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SECTION A: PROJECT SUMMARY

1. ____ Multi-family rental ____ Mobilehome park
   ____ Residential hotel ____ Single family rentals
   ____ Group home ____ Includes commercial space

2. Type of tenure: _____ rental ____cooperative

3. Total units: _____

4. Total assisted units: _____
   Percentage of units that are assisted (at least 30% of total project units): _____ %

5. Total very low-income assisted units: _____
   Percentage of assisted units that are very low-income (at least two thirds of assisted units): _____ %

6. Proposed RHCP loan amount: $ _____

7. The term of the program regulatory agreement: _____ years. Note, this answer affects your rating score. Refer to regulation subsection 8095(c)(1)(B).

8. Specify any proposed limits on occupancy, such as a specific type of tenant population, beyond those required by RHCP.

9. If the project includes commercial space, describe:

10. Provide the names of the state legislators for the site location:

    Assembly: _____

    Senate: _____

11. Provide the name and phone number of the contact from the local planning department and each of the other funding sources.

12. Site location by numbered street address, if determined, or by intersection of cross streets:

    at _____ or between _____ and _____

SECTION B. APPLICANT

1. The applicant is a (check one):

[ ] individual	[ ] general partnership
[ ] limited partnership	[ ] joint venture
[ ] for–profit corporation	[ ] limited equity housing cooperative
[ ] nonprofit corporation	[ ] Indian reservation or rancheria
[ ] public agency	[ ] other (specify)

a. If applicant is a partnership or joint venture, list all general partners and attach agreement.

b. Unless applicant is a public agency, attach audited financial statements or unaudited financial statements and tax returns for the past two years.

If applicant is a partnership, include the requested information for the general partners. If applicant is a joint venture, include the requested information for each partner.

c. Attach a resolution authorizing this application, unless the applicant is an individual. (See the attached SAMPLE RESOLUTION.)

2. Is any syndication or transfer of ownership to another entity planned prior to occupancy? Yes____ No____
If yes, describe below.

Provide the name of the new ownership entity, if known.

If it is a limited partnership, list the general partners and the entities with which they are affiliated.

3. Attach a list of the applicant's staff assigned to this project, providing their name, job title, job description, resume, and percentage of time assigned to this project.

4. Attach a list of the key members of the project development team, including the architect, and contractor, if selected. For each, indicate what their contract or employment status is, and attach a resume or qualifications statement for each. Attach actual or proposed consultant contracts, which clearly indicate scope of work to be performed.

5. Property management will be performed by:

_____ The applicant or an entity affiliated with the applicant.

_____ A currently identified management firm, under contract to the applicant.

_____ An unidentified management firm, to be under contract to the applicant.

If the applicant plans to manage the project or contract with a currently identified management firm, attach a list of projects currently under management. Use the following format.

Development name: _____

Site Address: _____

Number of units: _____ subsidized: _____ market: _____ total: _____

Subsidy Program: _____

6. For projects limiting occupancy to a specific tenant population:

a. Describe all state and local licenses required to operate the project, and list the licensing authorities.

b. List below all services to be provided project residents beyond those customarily provided in apartments.

c. List below expected sources of funds that will be used to support the services identified above. Indicate for each (1) the expected funding amount during the first two operating years and (2) the name and phone number of funding source contact person. If available attach letters of intent or support from each funding source listed.

7. For group homes, provide a letter of support for the project from the local public official responsible for services to the designated tenant population, stating that the project will be an intrinsic part of the locality's established social service delivery system.

8a. Development Capacity. Attach a description of rental housing projects similar to the proposed development that the applicant or project manager has developed, using the format shown below for each project.

The "project manager" may be a staff person or consultant. They must have clear responsibility for day–to–day project development activities for the proposed project throughout the development period (from proposal to construction completion).

Applicant or Project Manager roles typically should be one or more of the following: developer, development consultant, or staff for the prior experience indicated. If claiming experience in a staff role, indicate specific responsibilities and job title.

Applicant/Project Manager Name: _____

Applicant/Project Manager Role: _____

Development name: _____ Address: _____

Number of units: subsidized: _____ market: _____ total: _____

Subsidy program: _____

Major construction lender: _____

Major permanent lender: _____

Construction completion date: / /

New construction: _____ or Rehabilitation: _____ Building type: _____

8b. Ownership Capacity. Attach a description of rental housing developments similar to the proposed development which the applicant or applicant's staff has actively owned. "Actively owned", for applicants, means serving as the sole owner or managing general partner of the ownership entity.

For applicant's staff, "actively owned" means (1) serving as staff responsible for ownership duties (including oversight of property management) in an organization that actually held title or (2) serving as the sole owner or managing general partner of the ownership entity.

Applicant/Project Manager Name: _____

Role: _____

Development name: _____ Address: _____

Number of units: _____ subsidized: _____ market: _____ total: _____

Subsidy program: _____

Major construction lender: _____

Major permanent lender: _____

Construction completion date: / /

New construction: _____ or Rehabilitation: _____ Building type: _____

9. List below any program or financial assistance you have received from HCD.

Program	Contract #	Amount	Date	HCD Contact

10. Briefly describe each program/project your agency is currently implementing.

SECTION C. PROJECT CASH FLOW ANALYSIS

1. Monthly Operating Income

a. Assisted Units (for all projects except group homes):

Assisted Units	*# of Bedrooms*	*Square Feet*	*Gross Mon. Rent*	*Utility Allowance*	*Net Monthly Rent*	*# of Units*	*Total*
Very Low-Income	SRO		$	$	$		$
	Studio		$	$	$		$
	1 Bdrm		$	$	$		$
	2 Bdrm		$	$	$		$
	3 Bdrm		$	$	$		$
	4 Bdrm		$	$	$		$
	VLI Total						$
Lower-Income	SRO		$	$	$		$
	Studio		$	$	$		$
	1 Bdrm		$	$	$		$
	2 Bdrm		$	$	$		$
	3 Bdrm		$	$	$		$
	4 Bdrm		$	$	$		$
	LI Total						
Assisted Total							$

b. Nonassisted Units (for all projects except group homes):

Nonassisted Units	*# of Bedrooms*	*Square Feet*	*Gross Mon. Rent*	*Utility Allowance*	*Net Monthly Rent*	*# of Units*	*Total*
Very Low-Income*	SRO		$	$	$		$
	Studio		$	$	$		$
	1 Bdrm		$	$	$		$
	2 Bdrm		$	$	$		$
	3 Bdrm		$	$	$		$
	4 Bdrm		$	$	$		$
	VLI Total						$
Lower Income**	SRO		$	$	$		$
	Studio		$	$	$		$
	1 Bdrm		$	$	$		$
	2 Bdrm		$	$	$		$
	3 Bdrm		$	$	$		$
	4 Bdrm		$	$	$		$
	LI Total						$
Market-Rate	SRO		$		$		$
	Studio		$		$		$
	1 Bdrm		$		$		$
	2 Bdrm		$		$		$
	3 Bdrm		$		$		$
	4 Bdrm		$		$		$
	MR Total						$
Non-assisted Total							$

* Very low-income nonassisted units are units that have long term rent and occupancy restrictions that equal or exceed those required by the federal tax-credit program. Allowable rents cannot exceed 30% of 50% of the area median income, less a reasonable utility allowance. The maximum allowable income for a household occupying a unit is also 50% of the area median income.

** Lower income nonassisted units are units that have long term rent and occupancy restrictions that equal or exceed those required by the federal tax-credit program. Allowable rents cannot exceed 30% of 60% of the area median income, less a reasonable utility allowance. The maximum allowable income for a household occupying a unit is also 60% of the area median income. For the purpose of filling out this form only, do not include very low-income nonassisted units in this category.

c. For Group Homes Only:

Bedroom Type	*Number of Occupants*	*Monthly Rent Per Occupant*	*Total*
Single Occupancy		$	$
Double Occupancy		$	$
Staff Occupancy			
Total Monthly Rental Income:			$

d. For Commercial Space:

Space Designation	*Square Feet*	*Monthly Rent*	*Monthly Surcharge*	*Total Monthly Income*

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2. Annual Operating Expenses

Provide estimates for the first full year following initial occupancy. On an attached sheet, describe the basis for the estimate for each line item. In program-based projects described in A.8. above, show expenses for all direct and supportive tenant services in the assisted and nonassisted unit columns.

	Assisted	*Nonassisted*	*Commercial*	*Total*
MANAGEMENT				
a. Sponsor Overhead				
b. Contract Management Fee				
ADMINISTRATION				
a. Marketing				
b. Audit				
c. Legal				
d. Leases				
e. Miscellaneous				
f. TOTAL ADMINISTRATION				
SPONSOR SALARIES AND BENEFITS (include rent discounts)				
a. On-Site or Off-Site Manager				
b. Assistant Manager				
c. Grounds & Maintenance Personnel				
d. Desk Clerks				
e. Janitorial Personnel				
f. Housekeepers				
g. Services Staff				
h. Other				
i. TOTAL SALARIES AND BENEFITS				
MAINTENANCE				
a. Supplies				
b. Elevator Maintenance				
c. Pest Control				
d. Grounds Contract				
e. Interior Painting & Decorating				
f. Other				
g. TOTAL MAINTENANCE				
UTILITIES NOT PAID BY TENANTS				
a. Trash Removal				
b. Electricity				
c. Water and Sewer				
d. Gas				
e. TOTAL UTILITIES				
INSURANCE				
a. Property & Liability Insurance				

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	Assisted	*Nonassisted*	*Commercial*	*Total*
TAXES				
a. Real Estate Taxes				
b. Business License				
c. TOTAL TAXES				
OTHER				
a. Food				
b. Support Services				
c. Co-op Member Training/Education				
d.				
e.				
f. TOTAL OTHER				
TOTAL OPERATING EXPENSES				

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3. First Year Cash Flow Analysis

a. Operating Expenses: $ _____ per unit per year

b. Replacement reserve deposit: _____ % of unit construction cost (not less than 0.6%)

c. Operating reserve deposit: _____ % of annual operating expenses (approx. 3%)

d. Maximum possible sponsor distribution (check one):

____ 8% of actual investment on assisted and nonassisted units

Maximum distribution: $ _____ , based on actual investment of $ _____

____ 0% of actual investment on assisted units and no limit on nonassisted units (for–profit sponsors only)

YEAR 1 CASH FLOW ANALYSIS	*Assisted*	*Nonassisted*	*Commercial*	*Total*
Potential gross rental income	$	$	$	$
Misc. income (laundry, phone, vol. services charges, etc.)	$	$	$	$
Total potential gross income	$	$	$	$
Vacancy & collection loss %	($)	($)	($)	($)
Rental subsidies or program service funds	$	$		$
Effective Gross Income	$	$	$	$
Operating Expenses (from Section C.2.):	($)	($)	($)	($)
Net Operating Income (NOI) :	$	$	$	($)
Reapportioned Net Income**	$	($)	($)	$
Replacement reserve deposit:	($)	($)	($)	($)
Operating reserve deposit:	($)	($)	($)	($)
Debt service (other loans):	($)	($)	($)	($)
Cash Flow for Distributions and RHCP payments	$	$	$	$
Sponsor distributions:	($)	($)	($)	($)
RHCP interest payments:	($)			($)
RHCP interest deferred:	($)			($)

**Income from non–assisted units or commercial space used to subsidize assisted units cash flow. This line must total zero.

SECTION D: DEVELOPMENT BUDGET

Submit your development budget on the following form. Do not provide your own spreadsheet as a substitute. Show costs of syndication and developer's fees from syndication proceeds under Section E–2–d of this application. Do not include these costs on this form. Prorate common area costs that cannot be directly attributed to each residential or commercial use, based on the gross floor area of each use as a percentage of the total space.

DEVELOPMENT BUDGET	*Assisted*	*Nonassisted*	*Commercial*	*Total*
1. SITE ACQUISITION COST				
2. SITE VALUE BEYOND COST				
3. OFF–SITE IMPROVEMENTS				
4. SITE IMPROVEMENTS & LANDSCAPING				
5. UNIT CONSTRUCTION (including contingency)				
6. CONSTRUCTION FEES a. Local permits & fees				
b. Architecture & Engineering fees				
c. Survey				
d. Bond premium				
e. Other				
CONSTRUCTION FEES SUBTOTAL				
7. GENERAL DEVELOPMENT COSTS				
a. Construction lender financing fee %				
b. Construction loan interest months				
@ % on $				

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DEVELOPMENT BUDGET	*Assisted*	*Nonassisted*	*Commercial*	*Total*
c. Real estate taxes				
d. Risk/liability insurance				
e. Permanent lender financing fees %				
f. Appraisal fee				
g. Legal fees				
h. Consultant fees				
i. Title & escrow fees				
j. Relocation				
k. Furnishings				
l. Rent–up: marketing				
m. Rent–up: vacancy				
n. Initial Operating Reserve				
o. Post–Construction Audit				
p. Other				
q. Other				
GENERAL DEVELOPMENT COSTS SUBTOTAL				
8. ADMINISTRATIVE EXPENSES (DEVELOPMENT)				
9. TOTAL DEVELOPMENT COST				

SECTION E: PROJECT FINANCING

1. Sources and Uses

Provide spreadsheets with a breakdown of development costs listed in the left hand column and the sources of funds spread across the top row, in as many columns as necessary. Prepare separate spreadsheets for the construction period and the period when permanent financing is in place.

In the body of the spreadsheet, show which line items each source will be used to pay. Use RHCP Development Budget Categories, shown in the following sample, to aggregate costs.

Summarize financing details at the bottom of each column, as appropriate.

PROPOSED USE OF FUNDS	USE TOTALS	RHCP LOAN REQUEST	SOURCE 2 _____ _____ _____	SOURCE 3 _____ _____ _____	SOURCE 4 _____ _____ _____	SOURCE 5 _____ _____ _____	SOURCE 6 _____ _____ _____	LINE TOTALS
SITE ACQUISITION								
SITE VALUE BEYOND COST								
OFF-SITE IMPROVEMENTS								
SITE IMPROVEMENTS & LANDSCAPING								
UNIT CONSTRUCTION								
GENERAL DEVELOPMENT COSTS								
ADMINISTRATIVE EXPENSES								
TOTAL DEVELOPMENT COSTS								
FINANCIAL SUMMARY								
LIEN POSITION								
LOAN TYPE								
TERM								
ANNUAL RATE								

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2. Sources Descriptions and Documentation

In an attachment, provide the information requested below for all loans (including RHCP), all grants and all owner contributions which will be used to pay the project development cost. Include any construction or interim loans. Attach commitment letters or letters of intent that have been received, or executed promissory note and deed of trust if loan is in place.

To receive credit for site value, beyond site acquisition costs, (1) list this extra value under questions (b) or (c) below and on the development budget on page 14, and (2) submit an appraisal of the land in response to question F.4. on page 17.

For Lien Position (Item a–9), indicate by the following coding: 1 = First; 2 = Second; J = Junior; E = Equity; U = Unsecured. The RHCP loan may be subordinate to institutional lenders, but must be senior to other government liens.

a. Loans

1. Lender: _____ Contact: _____ Phone #: ( ) _____
2. Loan terms: $ _____ , at _____ % (fixed rate), amortized over _____ years, due in _____ years. ARM loan terms: _____
3. Loan Type: _____ amortized; _____ deferred/residual receipts; _____ bridge; _____ construction. _____
4. Amount of balloon payment, if applicable: $ _____
5. Debt service: P & I? _____ or interest only? _____ payment = $ _____ /month, $ _____ /year.
6. Status: _____ proposed; _____ committed; _____ funded.
7. Lien position:

b. Grants (including donated land, fee waivers, etc.)

1. Donor: _____ Contact: _____ Phone: ( ) _____
2. Amount: $ _____ Name of program, terms and limitations _____
3. Status: _____ proposed; _____ committed; _____ owned; _____ funded.

c. Owner/Managing General Partner Contributions

1. Amount: _____
2. Sources: _____

d. Limited Partner Contributions (Syndication Proceeds)

1. Gross Syndication Proceeds: _____
2. Costs of Syndication: _____
3. Net Syndication Proceeds: _____
4. Developer's Fee (up to 25% of net): _____
5. Contribution to Project Costs: _____
6. Attach a description of how the estimate of gross syndication proceeds was arrived at, the timetable for gross syndication pay–ins and a breakdown of the sponsor's costs of syndication.

SECTION F: SITE INFORMATION

1. Size of site: ____ acres # of parcels: _____

2. The applicant has legally enforceable site control, evidenced by one of the following:

_____ fee title _____ land sales contract

_____ option to purchase _____ leasehold interest

_____ disposition & development agreement

Attach complete evidence of site control (all documents comprising the agreement, with signatures by all parties). If the project is composed of more than one parcel, or there is more than one document provided to evidence site control, attach a narrative explanation describing clearly each parcel and each document.

3. Provide a current (no more than six months old) preliminary report. If the applicant is the current owner, the report should show them as such.

4. Complete attached LAND SALES COMPARABLES FORM or provide an appraisal of the project site done within the last 12 months.

5. Approximate distance to:

Schools _____ Park _____

Food market _____ Pharmacy _____

Hospital _____ Fire department _____

Public transportation (specify type) _____

6. On a vicinity map, identify the location of the project, the location of the comparable land sales requested in 4 above and the items listed in 5 above.

7. Is the property in a flood plain? Yes _____ No _____

If yes, explain design features that will mitigate this potential hazard.

8. Describe any adverse site features such as location near an airport, freeway, railroad tracks, industrial facility, etc.

9. Are there any known toxic or hazardous waste problems involving the site? Yes _____ No _____

If yes, attach a description of the problem. Attach a toxics survey if one is available.

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10. If the site is not located in an already developed subdivision, are power, water, sewer and telephone services now available for this site? Yes ____ No ____

If yes, attach all utility "will serve" letters that are obtainable. If no, explain how and when you will obtain those services not available.

11. Are there any unusual soils conditions? Yes ____ No ____

If yes, describe the conditions and attach a soils report.

12. Are off-site improvements needed? Yes ____ No ____

If yes, attach a description of these improvements and the basis for their estimated cost, as shown in the Development Budget above.

SECTION G: LOCAL GOVERNMENT APPROVALS

1. Does the project, as proposed, necessitate a zoning change?

___ Yes, the property is currently zoned _____
and is expected to receive the necessary zoning by _____

___ No, the property already has the necessary zoning, which is _____

Attach a letter from the local planning department or other evidence of the zoning.

2. Does the project need a conditional use permit? Yes _____ No _____

If yes, attach evidence of approval, or describe status of application.

3. Is subdivision approval required? Yes ____ No ___

If yes, does project have approval? Yes ___ No ___
If yes, attach approved tentative map, final map or parcel map. If subdivision approval is required but has not yet been obtained, what is the current status?

4. Does the project have Article XXXIV approval? Yes ____ No ____ Exempt ____

If yes, attach evidence from the local government agency. If no, explain current status. If exempt, explain why.

5. Attach a copy of a letter which has been sent from the applicant to the head of the local legislative body of general jurisdiction (city council, county board, etc.) notifying and describing the location, size, and type of proposed project, and proposed tenant population. Indicate the date that the letter was mailed.

SECTION H: UNIT CONSTRUCTION

1. Has unit construction started on the project? Yes ____ No ____

If yes, has unit construction in progress been halted, and is the project property currently foreclosed upon, in foreclosure, deeded to a lender in lieu of foreclosure, or at substantial risk of foreclosure? Yes ____ No ____

If yes, describe status of all actions to date:

2. Does the project involve the demolition of existing residential rental units? Yes ____ No ____

If yes, how many residential rental units are to be demolished?

a. If the number of units to be demolished is less than half the number of units to be built, describe the condition of the units to be demolished and the reasons why they are economically infeasible to rehabilitate.

b. Describe the applicant's plan for providing relocation benefits, whether any relocation units have been identified, who will be supervising and conducting the relocation effort, and related information.

3. Check all of the following amenities that are supplied to the tenants with cost included in the rent:

___ linen service	___ furniture
___ washer/dryer in unit	___ washer/dryer in common area
___ tot lots	___ playgrounds
___ barbecue area	___ basketball/volleyball courts
___ tennis courts	___ parking: ____ spaces/unit
___ swimming pool	___ other (specify)

4. If the project includes indoor common space for tenant use, describe.

5. Number of structures in the project: _____
Number of stories per structure: _____
Elevator: Yes _____ No _____

6. Calculate the square footages of space attributed to each use. Prorate common area costs that cannot be directly attributed to each use based on the leasable floor area of each use as a percentage of the total leasable space. See page 9 for a description of nonassisted low-income residential space.

Leasable assisted residential space:	_____ square feet
Indoor common space apportioned to the above:	_____ square feet
Total assisted residential space:	_____ square feet (_____ % of total space)
Leasable nonassisted low–income residential space:	_____ square feet
Indoor common space apportioned to the above:	_____ square feet
Total nonassisted low–income residential space:	_____ square feet (_____ % of total space)
Leasable nonassisted market–rate residential space:	_____ square feet
Indoor common space apportioned to the above:	_____ square feet
Total nonassisted market–rate residential space:	_____ square feet (_____ % of total space)
Leasable commercial space:	_____ square feet
Indoor common space apportioned to the above:	_____ square feet
Total commercial space:	_____ square feet (_____ % of total space)
Total leasable space:	_____ square feet
Total indoor common space:	_____ square feet
Total space:	_____ square feet (100 %)

7. What is the preliminary estimate of unit construction costs (excluding site improvements and landscaping), given the project timeline?

Assisted	$ _____	
Nonassisted	$ _____	
Commercial	$ _____	
Total	$ _____	$ _____ per square foot of gross (including common) space

List the name and phone number of the person who prepared this estimate and describe the method used to determine the figures.

8. Provide schematic drawings of the siteplan, floor plans and building elevations. What is the current status of the drawings?

SECTION I: PROJECT TIMELINE

1. Site acquisition will occur by _____

2. Local planning approvals will be secured by _____

3. Construction/interim financing will be obtained by _____

4. Permanent financing will be obtained by _____

5. Off-site improvements will be completed by _____

6. Unit construction will begin by (if phased, indicate timing) _____

7. Construction will be completed by _____

8. Initial occupancy will occur by _____

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SECTION J: LOCAL NEED AND LOCAL ASSISTANCE

1. The evaluation of local need shall be based upon information gathered by the department or upon data submitted by the applicant and determined to be acceptable by the department. All applicants should answer question (a).

   Only answer questions (b) and (c) if you believe that there is a significant error in the department's determination of the area vacancy rate, typical local market-rate rents as a percentage of the area median income, and rental housing development costs in comparison to costs in other areas of the state (published in the NOFA).

   Attach appropriate documentation for each of your answers, clearly indicating the source, the methodology employed and clearly stating conclusions.

   a. Length of wait for units in comparable subsidized housing developments. Provide information on specific comparable projects, not on area-wide lists.

   b. Market-rate rents and vacancy rate for typical units in the area.

   c. High rental housing development costs, in comparison to costs in other areas of the state.

2. Check the applicable statement related to the local public agency's provision of assistance. Financial assistance is defined as assistance that is equal to at least five percent of the project development cost, excluding any costs of tax-credit syndication. Nonfinancial assistance includes forms of assistance such as the granting of density bonuses, the modification of development standards, and the fast tracking of local approvals, but does not include simply the provision of technical assistance, consultation or advice. Attach documentation supporting the checked statement.

   _____ The project has received a commitment for financial or nonfinancial assistance from a local public agency.

   _____ The project is eligible for financial or nonfinancial assistance under a local agency program in support of lower income housing, but has not received a commitment.

   _____ None of the above apply.

3. For projects in jurisdictions with housing elements that are not in procedural or substantive compliance with state law, respond to the following question:

a. If the jurisdiction in which the proposed development is located has complied with all procedures required by Article 10.6, commencing with section 65580, of Chapter 3, Division 1 of Title 7 of the Government Code for the department's review of a draft housing element, and if that jurisdiction has adopted the housing element and submitted it to the department, that jurisdiction will be deemed to be in procedural compliance.

b. If the department has determined in writing that the adopted housing element for the jurisdiction in which the proposed development is located is in compliance with Article 10.6, commencing with section 65580, of Chapter 3, Division 1 of Title 7 of the Government Code, that jurisdiction will be deemed to be in substantive compliance.

Does the jurisdiction in which the project is located have a similar plan or policy formally considered by the local city council or board of supervisors? Yes No

If yes, attach a copy of the plan, or policy.

APPLICANT CERTIFICATION

I certify that the above and attached information and statements are true, accurate and complete to the best of my
knowledge.

_____ _____
(Signature of Authorized Officer/Owner) (Date)

_____
(Name of Authorized Officer/Owner)

For _____
(Name of Applicant)

Register 91, Nos. 34-39, 9-27-91

ATTACHMENT B.1.c.

(Applicant Letterhead)

SAMPLE RESOLUTION

NOTE: DO NOT COMPLETE IF THE APPLICANT IS AN INDIVIDUAL.

WHEREAS, The State of California, Department of Housing and Community Development, Division of Community
Affairs, has issued a NOTICE OF FUNDING AVAILABILITY UNDER THE RENTAL HOUSING CONSTRUCTION PROGRAM (RHCP); and

WHEREAS, (Name of Applicant) is a (State type of sponsor — public entity, nonprofit corporation, for-profit corporation, partnership, etc.), and has applied for an RHCP loan to develop low- and very low-income rental housing; and

WHEREAS, (Name and Title of Officer) will act on behalf of (Name of Applicant) and will sign all necessary documents required to complete the application and award process.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors (or authorizing body of governmental entity) of (Name of Applicant) hereby authorizes (Name and Title of Officer) to apply for and accept the loan in an amount not to exceed $_____, and to execute a State of California Standard Agreement, other required State documents, and any amendments thereto.

DATE:_____ SIGNED: _____

_____
(Name and title of person signing)

ATTACHMENT E.4.

RENTAL HOUSING CONSTRUCTION PROGRAM

LAND SALES COMPARABLES FORM

Instructions: Complete only if site appraisal is not available from the last 12 months. Show information for three recently sold parcels comparable to the proposed project site.

	1	*2*	*3*
Address			
Distance from Project Site			
Zoning			
Total Square Footage			
Date of Sale			
Sale Price			
Price Per Square Foot			
Access to Utility Services			
Unusual Site Conditions			
Other Remarks			

Source: _____

_____

Completed by Title Date

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50736 and 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. Amendment refiled 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 39). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 11–16–90 as an emergency; operative 11–16–90 (Register 91, No. 1). A Certificate of Compliance must be transmitted to OAL by 3–18–91 or emergency language will be repealed by operation of law on the following day.
6. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–16–90 and 12–19–90 orders transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
8. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 6–14–91 order including amendment of form and repeal of subsection (c) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).
10. Editorial correction adding inadvertently omitted HISTORY 7 and renumbering subsequent HISTORY NOTES (Register 95, No. 24).

§ 8095. Project Selection.

(a) Projects shall not be eligible for rating and ranking unless the application demonstrates that all of the following conditions exist:

(1) The applicant is an eligible sponsor pursuant to section 8078;

(2) The project involves an eligible project pursuant to section 8077;

(3) All proposed uses of program funds are eligible pursuant to section 8079;

(4) The application is complete pursuant to section 8094;

(5) The project will maintain fiscal integrity consistent with affordable rents in the assisted units.

(6) The project site is free from severe adverse environmental conditions, such as the presence of toxic waste that is economically infeasible to remove, that cannot be mitigated and is reasonably accessible to public transportation, shopping, medical services, recreation, schools, and employment in relation to the needs of the project tenants.

(7) In projects targeting households in need of any direct or supportive tenant services, the project provides those services suitable to the needs of the tenants.

(b) Projects shall not be denied funding solely because projected operating income is insufficient to make interest payments on the program loan.

(c) Where the application meets the requirements of subdivision (a), the proposed project will be rated to determine its compliance with the following priority requirements. The application must receive a minimum of 60 percent of the total possible priority points in order to qualify for funding. Applications receiving 60 percent or more of the total possible points shall be ranked based on their point scores, with applications scoring higher receiving a higher ranking. Applications shall be eligible to receive commitments of available funds in a priority order based on their ranking. If criterion (2) is not applicable to the proposed project, the total number of points possible will be reduced by the number of points in that criterion; and the 60 percent will be calculated on the reduced maximum possible points. The maximum score for each of the following seven criteria is 10:

(1) The extent to which the project maximizes program benefits to eligible households with the lowest incomes as evidenced by the following:

(A) The sum of the number of very low–income units and the number of very low–income nonassisted units, divided by the total number of assisted units.

(B) The proposed length of term of the program regulatory agreement, in excess of the program's minimum regulatory requirement.

(2) The number of assisted units with three or more bedrooms, divided by the total number of assisted units, (not applicable to residential hotels).

(3) Need, in the area, of the proposed project as approved by the department for the type of housing provided by the proposed project. The department shall issue an evaluation of need for market areas within California based on the criteria listed below. The sponsor in its application may submit other or additional information and data to rebut or supplement the department's evaluation with respect to the need within the individual project's area. Where the department determines that the sponsor's data provides a more accurate evaluation of need, it shall base its rating on such data.

(A) Low vacancy rate for rental housing.

(B) Typical local market–rate rents as a high percentage of the income limit for very low–income households. The income limit for very low–income households is provided in section 6932 pursuant to Health and Safety Code section 50105. For example, in Sacramento County the typical market–rate rent for a three–bedroom rental is $750, while the monthly income for a very low–income family of four is $1,562.50. Such a family will pay 48% of their income to rent such a dwelling unit. Since affordable rent is set at 25% of income pursuant to section 6922 of title 25, 48% of income is high.

(C) Length of wait for units in comparable subsidized housing developments.

(D) High rental housing development costs, in comparison to costs in other areas of the state.

(4) The extent to which the proposed project complements the implementation of an existing housing program in the local agency in which the proposed project is located. "Local agency" means the same as defined in section 50077 of the Health and Safety Code. Points shall be allocated based upon the following criteria:

(A) The extent to which the local agency has an existing housing program, such as a housing element in compliance with the requirements of article 10.6, commencing with section 65580, of chapter 3, division 1 of title 7 of the Government Code, or a similar plan or policy formally considered by the local city council or board of supervisors. A plan or policy shall ordinarily be deemed to be similarly based upon the extent to which it addresses affordable housing issues such as the following: an assessment of need in the area and an inventory of resources and any constraints on those resources; a statement of the community's goals, objectives and policies relative to the maintenance, preservation, improvement and development of housing; a program which sets forth a schedule of actions which the local government has undertaken, is undertaking and intends to undertake to implement these goals; and a program for preserving existing assisted housing developments. Examples of actions which a local government may have taken, is taking, or may intend to take in implementing the community's goals, objectives and policies include the following: demonstrated performance in support of the development of affordable housing; utilization of federal, state, and local financing and subsidy programs; land use development controls; and regulatory provisions, concessions and incentives.

(B) The extent to which the local agency is providing, or could provide, financial or nonfinancial assistance to the applicant's project. Financial assistance is defined as assistance that is equal to at least five percent of the project development cost, excluding any costs of tax–credit syndication, or $250,000, whichever is less. Nonfinancial assistance includes forms of assistance such as the granting of density bonuses, the modification of development standards, and the fast tracking of local approvals,

but does not include simply the provision of technical assistance, consultation or advice.

(5) The program loan amount divided by the sum of the total development cost of all assisted units and lower income nonassisted units. Total development cost does not include any costs of tax-credit syndication.

(6) The degree of the project's economic feasibility, as demonstrated by the following:

(A) The capacity of the applicant, including its board, staff and any consultants, as evidenced by previous development and ownership experience with residential projects and by the applicant's financial, operational and organizational stability.

(B) The readiness of the project to start construction as evidenced by the status of local development approvals and project financing commitments.

(7) The applicant's budget for construction and construction-related expenses, such as architectural, building permit, and local development fees, divided by typical costs for the same sized project, as estimated by the department.

Maximum possible points 70

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50735 and 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12-29-89 as an emergency; operative 12-29-89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4-30-90.
2. New section refiled 4-26-90 as an emergency; operative 4-26-90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8-24-90.
3. Amendment refiled 7-23-90 as an emergency; operative 7-23-90 (Register 90, No. 39). A Certificate of Compliance must be transmitted to OAL by 11-20-90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 8-27-90 as an emergency; operative 8-27-90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12-26-90 or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 11-16-90 as an emergency; operative 11-16-90 (Register 91, No. 1). A Certificate of Compliance must be transmitted to OAL by 3-18-91 or emergency language will be repealed by operation of law on the following day.
6. New section refiled 12-19-90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12-19-90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4-18-91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-16-90 and 12-19-90 orders transmitted to OAL 1-4-91; disapproved by OAL 2-4-91 (Register 91, No. 13).
8. New section refiled 2-20-91 as an emergency; operative 2-20-91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6-17-91 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 6-14-91 order including amendment of subsections (a) and (c) transmitted to OAL 5-15-91 and filed 6-14-91 (Register 91, No. 38).
10. Editorial correction of printing errors in subsections (c)(1)(A) and (c)(3)(B) (Register 91, No. 46).

Article 4. Program Operations

§ 8096. Legal Documents.

(a) The department shall enter into a Standard Agreement with the sponsor which shall encumber monies from the fund in an amount sufficient to fund the approved loan amount. The Standard Agreement shall contain the following:

(1) A description of the approved project and the permitted uses of program funds;

(2) provisions governing the amount and terms of the loan;

(3) provisions regarding the regulatory restrictions to be applied to the project through the Regulatory Agreement;

(4) provisions governing the construction work and, as applicable, the acquisition of the project site, and the disbursement of loan proceeds;

(5) special conditions imposed as part of department approval of the project;

(6) requirements for the execution and the recordation of the agreements and documents required under the program;

(7) terms and conditions required by federal or state law;

(8) requirements regarding the establishment of escrow accounts for the deposit of documents and the disbursement of loan proceeds;

(9) remedies available to the department in the event of a violation, breach, or default of the Standard Agreement to ensure compliance with program requirements for the full term of the Regulatory Agreement, including repayment of all costs of enforcement;

(10) other provisions necessary to ensure compliance with the requirements of this program.

(b) The department shall enter into a Development Agreement with the sponsor which shall be executed prior to the disbursement of funds to the sponsor, govern the performance of the project, and include the following:

(1) The approved schedule of the project, including land acquisition, if any, commencement and completion of construction work, and occupancy by eligible households;

(2) provisions ensuring that the construction contract is consistent with section 8092 and other program requirements and that all financing agreements are consistent with program requirements;

(3) the approved budget for construction work, land acquisition and other project costs, if applicable;

(4) provisions relating to fund disbursement;

(5) provisions relating to acquisition agreements, preparation of construction specifications, bidding, awards to contractors, and disbursement of funds to contractors, or others;

(6) requirements for reporting to the department;

(7) terms and conditions for the inspection and monitoring of the project in order to verify compliance with the Standard Agreement and this agreement;

(8) provisions regarding tenant relocation;

(9) bonding and insurance requirements consistent with the requirements of this subchapter;

(10) conditions constituting breach of the Development Agreement and remedies available to the parties thereto, including repayment of costs of enforcement;

(11) a requirement that the contractor comply with state prevailing wage law, as set forth in Labor Code section 1720 et seq., where program funds are provided as construction financing; and

(12) other provisions necessary to ensure compliance with the requirements of this program.

(c) The department shall enter into a Regulatory Agreement with the sponsor for not less than the original term of the loan which shall be recorded against the project property prior to the disbursement of funds. The Regulatory Agreement shall include the following:

(1) designation of the number and type of assisted units pursuant to section 8086;

(2) standards for tenant selection pursuant to section 8087(a);

(3) provisions regulating the terms of the rental agreement pursuant to section 8087(c);

(4) provisions related to an annual budget approved by the department pursuant to section 8102;

(5) provisions related to a management plan pursuant to section 8100;

(6) provisions related to a rent schedule, including initial rent levels for assisted and nonassisted units pursuant to section 8088(a);

(7) conditions and procedures for permitting rent increases pursuant to section 8088(b);

(8) provisions for limitations on distributions pursuant to section 8089;

(9) provision requiring annual reports, inspections and audits pursuant to section 8101;

(10) provisions regarding the withdrawal of funds from reserve accounts and additional payments by the department;

(11) assurances that sponsor will maintain the rental housing development in a safe and sanitary condition in compliance with state and local housing codes and the management plan pursuant to section 8100;

(12) conditions constituting breach of the Regulatory Agreement and remedies available to the parties thereto;

(13) provisions governing use and operation of nonassisted units and common areas to the extent necessary to ensure compliance with program requirements;

(14) provisions authorizing enforcement of program requirements by tenants;

(15) special conditions of loan approval imposed by the department;

(16) provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the sponsor and that all sales, transfers, and encumbrances shall be subject to section 8099; and

(17) other provisions necessary to assure compliance with the requirements of the program.

(d) All loans shall be evidenced by a promissory note payable to the department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the program. The note shall be secured by a deed of trust on the project property naming the department as beneficiary or by other security acceptable to the department; this deed of trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the department and shall secure the department's financial interest in the project and the performance of sponsor's program obligations.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50771.1 and 53130, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsections (a) and (b) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8097. Disbursement of Loan Funds.

(a) The sponsor shall request funds from the department for actual expenditures in accordance with the schedule and the authorized amounts in the approved project budget in the Development Agreement. The information on any request for funds shall be subject to verification by the department. Requests shall be made on form HCD 810, "Request for Funds," 12/89, as set forth in subsection (b). This form is provided by the department.

(b) Text of form HCD 810, "Request for Funds," dated 12/89:

HCD 810. 12/89

RENTAL HOUSING CONSTRUCTION PROGRAM
REQUEST FOR FUNDS #

1. BORROWER (Payee): _____
2. ADDRESS: _____
3. CONTRACT NUMBER: _____
4.

APPROVED LOAN AMOUNT	AMOUNT PER THIS REQUEST	PREVIOUSLY APPROVED	TOTAL AMOUNT BALANCE
$ _____	$ _____	$ _____	$ _____

5. USE OF FUNDS REQUESTED: (Specify line items per Development Agreement Budget.)
   $ _____
   $ _____
   $ _____
   $ _____

6. DRAW CHECK IN TOTAL AMOUNT OF: $ _____

7. SEND CHECK TO: Department of Housing and Community Development
   Accounting Office
   P.O. Box 952050
   Sacramento, CA 94252–2050

8. CERTIFICATION: I, the undersigned, do hereby certify that (1) the funds requested above will be used only in accordance with the above numbered State Standard Agreement and the Development Agreement entered into pursuant to this Standard Agreement, and only for eligible costs, as specified in the RHCP regulations; and (2) the Borrower and the project are in full compliance with the Standard Agreement, the Development Agreement, and all other agreements by and between the Borrower and the Department of Housing and Community Development entered into pursuant to the Standard Agreement.

   Signed: _____

   Title: _____ Date: _____

DO NOT WRITE BELOW THIS LINE

The work performed for which this request for disbursement is presented is in accordance with all provisions of Contract Number _____ between _____ and the Department of Housing and Community Development, and is hereby approved for payment.

Program Manager: _____ Date: _____

(c) Prior to the disbursement of funds, the sponsor shall provide or execute all required documents which the department determines are necessary to verify the claimed expenditure.

(d) The department may enter into agreements with other lenders or public or private entities to disburse funds and monitor construction and may make direct payments to such third party contractors on behalf of sponsors.

(e)(1) If a sponsor is a nonprofit corporation or a government entity, the department may disburse an initial advance payment subject to the following conditions:

(A) any required documents are executed by the sponsor;

(B) the sponsor is in compliance with all applicable conditions for the advance of funds;

(C) the sponsor submits a "Request for Funds"; and

(D) the sponsor certifies that it does not have adequate funds to commence the project.

(2) The advance payment shall not exceed 25 percent of the approved administrative costs.

(3) All disbursements subject to the initial advance shall be made only to pay for actual eligible costs incurred.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsections (a) and (b) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8098. Sales, Transfers, and Encumbrances.

(a) A sponsor shall not sell, assign, transfer, or convey the rental housing development, or any interest therein or portion thereof, without the express prior written approval of the department. A sale, transfer or conveyance shall be approved only if all of the following requirements are met:

(1) the existing sponsor is in compliance with the Regulatory Agreement or the sale, transfer or conveyance will result in the cure of any existing violations;

(2) the successor–in–interest to the sponsor agrees to assume all obligations of the existing sponsor pursuant to the Regulatory Agreement and this program;

(3) the successor–in–interest is an eligible sponsor and demonstrates to the department's satisfaction that it can successfully own and operate the rental housing development and comply with all program requirements; and

(4) no terms of the sale, transfer, or conveyance jeopardize either the department's security or the successor's ability to comply with all program requirements.

(b) The department shall grant its approval of such sale, assignment, transfer, or conveyance subject to such terms and conditions as may be necessary to preserve or establish the fiscal integrity of the project. Such conditions shall include:

(1) the deposit of sales proceeds, or a portion thereof, to maintain required reserves, or to offset negative cash flow;

(2) the recapture of syndication proceeds or other funds in accordance with special conditions included in the Standard Agreement or any other agreement executed by the sponsor;

(3) such conditions as may be necessary to ensure compliance with the program requirements.

(c) The sponsor shall not encumber, pledge, or hypothecate the rental housing development, or any interest therein or portion thereof, or allow any lien, charge, or assessment against the rental housing development without the prior written approval of the department. The department may permit refinancing of existing liens or additional financing secured by the rental housing development to the extent necessary to maintain or improve the fiscal integrity of the project, to maintain affordable rents, or to decrease rents.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (b) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8099. Defaults and Loan Cancellations.

(a) In the event of a breach or violation by the sponsor of any of the provisions of the Regulatory Agreement, the Standard Agreement, the Development Agreement, the promissory note, or the deed of trust, or any other agreement pertaining to the project, the department may give written notice to the sponsor to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the department within the specified time period, the department, at its option, may declare a default under the relevant document and may seek legal remedies for the default including the following:

(1) The department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amount in full, the department may proceed with a foreclosure in accordance with the provisions of the deed of trust and state law regarding foreclosures.

(2) The department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the project or operate the rental housing development in accordance with program requirements.

(3) The department may seek such other remedies as may be available under the relevant agreement or any law.

(b) In the event that the breach or violation involves charging tenants rent or other charges in excess of those permitted under the Regulatory Agreement, the department may demand the return of such excess rents or other charges to the affected households. In any action to enforce the provisions of the Regulatory Agreement, the department may seek as additional remedy, the repayment of such overcharges.

(c) Loan commitments may be canceled by the department under any of the following conditions:

(1) the objectives and requirements of the program cannot be met;

(2) implementation cannot proceed in a timely fashion in accordance with the approved plans and schedules;

(3) special conditions have not been fulfilled within required time periods;

(4) the construction work has not commenced within one year of the date of loan approval;

(5) there has been a material change in the principals or management of the sponsor or project, which was not approved by the department.

The department, in writing and upon demonstration by the sponsor of good cause, may extend the date for compliance with any of the conditions in this subdivision.

(d) Upon receipt of a notice of intent to cancel the loan from the department, the sponsor shall have the right to appeal to the Director.

(e) The department may use amounts available in the fund pursuant to section 8103(b) for the purpose of curing, or avoiding, a sponsor's defaults on the terms of any loan or other obligation which jeopardize completion of construction, the fiscal integrity of a project or the department's security in the project. Such defaults include defaults or impending defaults in payments on mortgages, failures to pay taxes, or failures to maintain insurance or required operating reserves. The payment or advance of funds by the department pursuant to this subdivision shall be solely within the discretion of the department and no sponsor shall be entitled to or have any right to payment of these funds. All funds so advanced shall be part of the program loan to the sponsor and, upon demand, due and payable to the department. Where it becomes necessary to use the fund for the purpose of assisting a project to avoid threatened defaults or foreclosures, the department shall take those actions necessary, including, but not limited to, foreclosure or forced sale of the project property, to prevent similar occurrences and insure compliance with the terms of the applicable agreements.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
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5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (e) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8100. Management and Maintenance.

(a) The sponsor shall be responsible for all management functions of the rental housing development including selection of the tenants, annual recertification of household income and size, evictions, and collection of rent.

(b) The sponsor is responsible for all repair and maintenance functions of the rental housing development, including ordinary maintenance and replacement of capital items. The sponsor shall maintain residential units, commercial space and common areas in accordance with local health, building, and housing codes and the management plan.

(c) The sponsor, with the prior approval of the department, may contract with a management agent for the performance of the services or duties required in subdivisions (a) and (b). However, such an arrangement does not relieve the sponsor of responsibility for proper performance of these duties. Such contract shall be subject to Department approval and contain a provision allowing the sponsor to terminate the contract upon thirty days' notice. The sponsor shall terminate said contract as directed by the department upon determination that management does not comply with program requirements.

(d) The sponsor shall develop a management plan subject to department approval prior to loan closing. The plan shall be consistent with this subchapter and shall include the following:

(1) the role and responsibility of the sponsor and its delegation of authority, if any, to the managing agent;

(2) personnel policy and staffing arrangements;

(3) plans and procedures for publicizing and achieving early and continued occupancy;

(4) procedures for determining tenant eligibility and for certifying and annually recertifying household income and size;

(5) plans for carrying out an effective maintenance and repair program;

(6) rent collection policies and procedures;

(7) program for maintaining adequate accounting records and handling necessary forms and vouchers;

(8) plans for enhancing tenant–management relations;

(9) management agreement, if any;

(10) description of direct or supportive tenant services, if any;

(11) provisions for periodic update of management plan;

(12) for limited equity housing cooperatives, plans for board and member training and education;

(13) appeal and grievance procedures;

(14) plans for collections for tenant–caused damages;

(15) plans for processing evictions and termination; and

(16) equal opportunity provisions that apply to hiring and renting.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50736 and 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (d) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).
8. Editorial correction of printing error in subsection (c) (Register 91, No. 46).

§ 8101. Reporting.

(a) No later than 90 days after the end of each fiscal year, the sponsor shall report to the department on form HCD 820, "RHCP Annual Sponsor Certification," 12/89, as set forth in subsection (c). This form is provided by the department.

(b) As part of the annual report, the sponsor shall submit an audit of the rental housing development prepared in accordance with generally accepted auditing standards by a certified public accountant. Upon a determination that the cost of meeting this requirement exceeds the potential benefits from it to the department and to the tenants of the rental housing development, the department shall:

(1) reduce the required frequency of the audit;

(2) accept an audited financial statement in lieu of the audit; or

(3) waive this requirement completely.

(c) Copy of form HCD 820, "RHCP Annual Sponsor Certification," dated 12/89:

HCD 820, 12/89

RHCP ANNUAL SPONSOR CERTIFICATION
FISCAL YEAR _____

Contract: _____

Development name: _____

Sponsor: _____

The sponsor must send the Audit and Sponsor Certification to HCD within ninety (90) days after the fiscal year ends. Send one copy of the Audit and Sponsor Certification with original signatures, plus an additional copy of the Sponsor Certification.

Check here for forms included:

___	RHCP Annual Sponsor Certification (all projects)	Page 1
___	Report of Actual Income (all projects)	Page 2
___	Report of Actual Expenses (all projects)	Page 3 and 4
___	Calculation of Assisted Unit Expenses (all projects)	Page 5 and 6
___	Calculation of Commercial Space Expenses (with commercial space only projects)	Page 7 and 8
___	Uses of Net Operating Income (all projects)	Page 9
___	Report of RHCP Loan Payment Balances (all projects)	Page 10
___	Report of Vacancy Loss and Uncollectible Rents (all projects)	Page 11
___	Report on Replacement Reserve Account (all projects)	Page 12
___	Report on Operating Reserve Account (all projects)	Page 13

Sponsor Certification

It is hereby certified that all of the representations made by the Sponsor in the Regulatory Agreement and the financial disclosures contained in this report are true and correct, and that there is not any condition, event, or act which would constitute an event of default thereunder, or which with notice, passage of time, or both, would constitute such an event of default.

_____
Sponsor

_____
Signature

_____ _____
Title Date

REPORT OF ACTUAL INCOME
FISCAL YEAR _____

Contract: _____ Development name: _____

Units — Assisted/Total: _____ Prepared by: _____

	BUDGET (A)	*ACTUAL (B)*	*HCD APPROVED (C)*
Assisted Units:			
1. Net Rental Income			
2. Prorated Interest Income			
3. Prorated Laundry Income			
4. Resident Collections			
5. Operating Reserve Withdrawals			
6. Prorated Other Project Income			
7. Subtotal Income — Assisted Units			
8. Uncollectible Rents			
9. Uncollectible Resident Damage			
10. Total Income — Assisted Units			
Nonassisted Units:			
11. Sponsor Contributions			
12. Net Rental Income			
13. Prorated Interest Income			
14. Prorated Laundry Income			
15. Resident Collections			
16. Operating Reserve Withdrawals			
17. Prorated Other Project Income			
18. Subtotal Income — Nonassisted Units			
19. Uncollectible Rents			
20. Uncollectible Resident Damage			
21. Total Income — Nonassisted Units			
22. Commercial Income			
23. Total Project Income			

Register 91, Nos. 34–39; 9–27–91

REPORT OF ACTUAL EXPENSES
FISCAL YEAR _____

Contract: _____ Development name: _____

Units — Assisted/Total: _____ Prepared by: _____

ACCOUNT NAME	*TOTAL EXPENSES*		
	BUDGET (A)	*ACTUAL (B)*	*HCD APPROVED (C)*
MANAGEMENT FEE:			
1. Sponsor Overhead			
2. Contract Management Fee			
3. TOTAL MANAGEMENT FEES:			
ADMINISTRATION:			
4. Marketing			
5. Audit			
6. Legal			
7. Misc. Administrative Expenses			
8. TOTAL ADMINISTRATION:			
SALARIES:			
9. On-Site or Off-Site Manager			
10. Assistant Manager			
11. Grounds and Maintenance Personnel			
12. Desk Clerks			
13. Janitorial Personnel			
14. Housekeepers			
15. Services Staff			
16. Other _____			
17. TOTAL SALARIES:			
MAINTENANCE:			
18. Supplies			
19. Elevator Maintenance			
20. Pest Control			
21. Grounds Contracts			
22. Interior Painting and Decorating			
23. Other _____			
24. TOTAL MAINTENANCE:			
UTILITIES:			
25. Trash Removal			
26. Electricity			
27. Water and Sewer			
28. Gas			
29. HCD Use Only			
30. TOTAL UTILITIES:			
INSURANCE:			
31. Property & Liability Insurance			
32. TOTAL INSURANCE:			
TAXES:			
33. Real Estate Taxes/PILOTS			
34. Business License			
35. TOTAL TAXES:			

Register 91, Nos. 34–39; 9–27–91

REPORT OF ACTUAL EXPENSES
FISCAL YEAR _____

Contract: _____

ACCOUNT NAME	*TOTAL EXPENSES*		
	BUDGET (A)	*ACTUAL (B)*	*HCD APPROVED (C)*
OTHER:			
36. Food			
37. Support Services			
38. Co-op Member Training/Education			
39. _____			
40. _____			
41. TOTAL OTHER:			
42. SUBTOTAL OPERATING EXPENSES:			
DEPOSITS TO RESERVE ACCOUNTS:			
43. Replacement Reserve			
44. Operating Reserve			
45. TOTAL DEPOSITS TO RESERVE ACCOUNTS:			
FINANCIAL EXPENSES (NON-RHCP):			
46. Debt Service (1st)			
47. Debt Service (2nd)			
48. Other _____			
49. Other _____			
50. Other _____			
51. TOTAL FINANCIAL EXPENSES:			
DISTRIBUTIONS:			
52. Distributions			
53. TOTAL EXPENSES:			

Register 91, Nos. 34–39; 9–27–91

CALCULATION OF ASSISTED UNIT EXPENSES
FISCAL YEAR _____

Contract: _____ Development name: _____

Units — Assisted/Total: _____ Prepared by: _____

ACCOUNT NAME	*ASSISTED EXPENSES*			
	TOTAL ACTUAL EXPENSES (D)	*APPROVED PRORATION FACTOR (E)*	*ASSISTED UNIT ACTUALS (F)*	*ASSISTED UNIT BUDGET (G)*
MANAGEMENT FEE:				
1. Sponsor Overhead				
2. Contract Management Fee				
3. TOTAL MANAGEMENT FEES:				
ADMINISTRATION:				
4. Marketing				
5. Audit				
6. Legal				
7. Misc. Administrative Expenses				
8. TOTAL ADMINISTRATION:				
SALARIES:				
9. On–Site or Off–Site Manager				
10. Assistant Manager				
11. Grounds and Maintenance Personnel				
12. Desk Clerks				
13. Janitorial Personnel				
14. Housekeepers				
15. Services Staff				
16. Other _____				
17. TOTAL SALARIES:				
MAINTENANCE:				
18. Supplies				
19. Elevator Maintenance				
20. Pest Control				
21. Grounds Contracts				
22. Interior Painting and Decorating				
23. Other _____				
24. TOTAL MAINTENANCE:				
UTILITIES:				
25. Trash Removal				
26. Electricity				
27. Water and Sewer				
28. Gas				
29. HCD Use Only				
30. TOTAL UTILITIES:				
INSURANCE:				
31. Property & Liability Insurance				
32. TOTAL INSURANCE:				
TAXES:				
33. Real Estate Taxes/PILOTS				
34. Business License				
35. TOTAL TAXES:				

Register 91, Nos. 34–39; 9–27–91

CALCULATION OF ASSISTED UNIT EXPENSES
FISCAL YEAR _____

Contract: _____

ACCOUNT NAME	*ASSISTED EXPENSES*			
	TOTAL ACTUAL EXPENSES (D)	*APPROVED PRORATION FACTOR (E)*	*ASSISTED UNIT ACTUALS (F)*	*ASSISTED UNIT BUDGET (G)*
OTHER:				
36. Food				
37. Support Services				
38. Co-op Member Training/Education				
39. _____				
40. _____				
41. TOTAL OTHER:				
42. SUBTOTAL OPERATING EXPENSES:				
DEPOSITS TO RESERVE ACCOUNTS:				
43. Replacement Reserve				
44. Operating Reserve				
45. TOTAL RESERVES:				
FINANCIAL EXPENSES (NON-RHCP):				
46. Debt Service (1st)				
47. Debt Service (2nd)				
48. Other _____				
49. Other _____				
50. Other _____				
51. TOTAL FINANCIAL EXPENSES:				
DISTRIBUTIONS:				
52. Distributions				
53. TOTAL EXPENSES:				

Register 91, Nos. 34–39; 9–27–91

CALCULATION OF COMMERCIAL SPACE EXPENSES
FISCAL YEAR _____

Contract: _____ Development name: _____

Units — Assisted/Total: _____ Prepared by: _____

ACCOUNT NAME	*COMMERCIAL SPACE EXPENSES*			
	TOTAL ACTUAL EXPENSES (D)	*APPROVED PRORATION FACTOR (E)*	*COMMERCIAL SPACE ACTUALS (F)*	*COMMERCIAL SPACE BUDGET (G)*
MANAGEMENT FEE:				
1. Sponsor Overhead				
2. Contract Management Fee				
3. TOTAL MANAGEMENT FEES:				
ADMINISTRATION:				
4. Marketing				
5. Audit				
6. Legal				
7. Misc. Administrative Expenses				
8. TOTAL ADMINISTRATION:				
SALARIES:				
9. On–Site or Off–Site Manager				
10. Assistant Manager				
11. Grounds and Maintenance Personnel				
12. Desk Clerks				
13. Janitorial Personnel				
14. Housekeepers				
15. Services Staff				
16. Other _____				
17. TOTAL SALARIES:				
MAINTENANCE:				
18. Supplies				
19. Elevator Maintenance				
20. Pest Control				
21. Grounds Contracts				
22. Interior Painting and Decorating				
23. Other _____				
24. TOTAL MAINTENANCE:				
UTILITIES:				
25. Trash Removal				
26. Electricity				
27. Water and Sewer				
28. Gas				
29. HCD Use Only				
30. TOTAL UTILITIES:				
INSURANCE:				
31. Property & Liability Insurance				
32. TOTAL INSURANCE:				
TAXES:				
33. Real Estate Taxes/PILOTS				
34. Business License				
35. TOTAL TAXES:				

Register 91, Nos. 34–39; 9–27–91

CALCULATION OF COMMERCIAL SPACE EXPENSES
FISCAL YEAR _____

Contract: _____

ACCOUNT NAME	*COMMERCIAL SPACE EXPENSES*			
	TOTAL ACTUAL EXPENSES (D)	*APPROVED PRORATION FACTOR (E)*	*COMMERCIAL SPACE ACTUALS (F)*	*COMMERCIAL SPACE BUDGET (G)*
OTHER:				
36. Food				
37. Support Services				
38. Co-op Member Training/Education				
39. _____				
40. _____				
41. TOTAL OTHER:				
42. SUBTOTAL OPERATING EXPENSES:				
DEPOSITS TO RESERVE ACCOUNTS:				
43. Replacement Reserve				
44. Operating Reserve				
45. TOTAL RESERVES:				
FINANCIAL EXPENSES (NON-RHCP):				
46. Debt Service (1st)				
47. Debt Service (2nd)				
48. Other _____				
49. Other _____				
50. Other _____				
51. TOTAL FINANCIAL EXPENSES:				
DISTRIBUTIONS:				
52. Distributions				
53. TOTAL EXPENSES:				

Register 91, Nos. 34–39; 9–27–91

USES OF NET OPERATING INCOME
FISCAL YEAR _____

Contract: _____ Development name: _____

Units — Assisted/Total: _____ Prepared by: _____

	ASSISTED UNITS	*NONASSISTED UNITS*	*RESIDENTIAL TOTAL*	*COMMERCIAL SPACE*
1. Actual Income				
2. Approved Budgeted Operating Expenses				
3. Actual Operating Expenses				
4. Lesser of Line 2 or 3				
5. Net Operating Income				
6. Deposits to Reserve Accounts				
7. Financial Expenses				
8. Sponsor Distributions				
9. RHCP Interest Payments				
10. RHCP Principal Payments				
11. Sponsor Incentive Payments				
12. Amount to Deposit in HCD Emergency Reserve Fund				

REPORT OF RHCP LOAN PAYMENT BALANCES
FISCAL YEAR _____

Contract: _____

Units — Assisted/Total: _____

Development name: _____

Prepared by: _____

	AMOUNT
1. Original Principal Amount	
2. Total Principal Paid in Previous Years	
3. Principal Paid in This Fiscal Year	
4. Outstanding Principal Balance	
5. Total Interest Due in Previous Years	
6. Interest Due in This Fiscal Year	
7. Total Interest Due	
8. Total Interest Paid in Previous Years	
9. Interest Paid in This Fiscal Year	
10. Total Interest Paid	
11. Outstanding Interest Balance	

Register 91, Nos. 34–39; 9–27–91

REPORT OF VACANCY LOSS AND UNCOLLECTIBLE RENTS
FISCAL YEAR _____

Contract: _____ Development name: _____

Units — Assisted/Total: _____ Prepared by: _____

	PROPOSED (A)	*APPROVED (B)*
Assisted Units:		
1. Rent Loss Due to Vacancy		
2. Uncollectible Rents		
3. Total Rent Loss — Assisted Units		
Nonassisted Units:		
4. Rent Loss Due to Vacancy		
5. Uncollectible Rents		
6. Total Rent Loss — Nonassisted Units		
Commercial Space:		
4. Rent Loss Due to Vacancy		
5. Uncollectible Rents		
6. Total Rent Loss — Commercial Space		
7. TOTAL PROJECT RENT LOSS		

REPORT OF REPLACEMENT RESERVE ACCOUNT
FISCAL YEAR _____

Contract: _____ Development name: _____

Units — Assisted/Total: _____ Prepared by: _____

	PROPOSED (A)	*APPROVED (B)*
1. Beginning Balance		
2. Deposits		
3. Withdrawals		
4. Ending Balance		
5. Summary Withdrawals		
_____		
_____		
_____		
_____		
6. TOTAL WITHDRAWALS		

FOOTNOTES: _____

_____

_____

_____

Register 92, Nos. 15–17; 4–24–92

REPORT ON OPERATING RESERVE ACCOUNT
FISCAL YEAR _____

Contract: _____ Development name: _____

Units — Assisted/Total: _____ Prepared by: _____

	PROPOSED (A)	*APPROVED (B)*
1. Beginning Balance		
2. Deposits		
3. Withdrawals		
4. Ending Balance		
5. Summary of Withdrawals		
_____		
_____		
_____		
_____		
6. TOTAL WITHDRAWALS		

FOOTNOTES: _____

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsections (a) and (c) and form transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8102. Operating Budget.

(a) Prior to loan closing, the sponsor shall provide the department an initial operating budget for its approval. Such budget shall show all anticipated income, expenses for management, operations, and maintenance, debt service and reserve deposits for the initial operating year.

(b) Sixty days prior to the end of each fiscal year, the sponsor shall submit to the department a proposed operating budget for its approval. The proposed operating budget shall set forth the sponsor's estimate of the project's operating income, operating expenses, debt service for the upcoming year, and any proposed rent increases pursuant to section 8088.

(c) The initial and subsequent proposed operating budgets shall be subject to the approval of the department based on its determination that the budget line items are reasonable and necessary in light of costs for comparable rental housing developments and prior year budgets. Actual expenditures in excess of the approved budget amount shall be subject to department approval.

(d) The initial operating budget and subsequent proposed operating budgets shall include periodic deposits to:

(1) A replacement reserve account for capital improvements such as replacing structural elements, furniture, fixtures, or equipment of the rental housing development which are reasonably required to preserve the project; and

(2) an operating reserve account in an amount sufficient to offset potential operating shortfalls.

(e) Upon initial occupancy, the amount in the operating reserve account shall be at least one percent of total project development costs.

(f) For projects with nonassisted units or commercial space, all budgets submitted pursuant to this section shall show income and uses of income allocated among assisted units, nonassisted units, and commercial space. The allocation method used for each budget line item shall be subject to department approval, and shall apportion income and expenses in a manner that accurately reflects the particular physical, operational and economic characteristics of the project.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Section 50771.1, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (b) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

§ 8103. Emergency Reserve Account.

(a) The department shall establish an emergency reserve account in the fund. Three percent of any allocation made to the fund pursuant to Health and Safety Code section 53130(a) shall be deposited into the account. Excess funds returned to the department pursuant to section 8089(i) shall be deposited into the account to replace the allocated funds in the account on a dollar for dollar basis. Allocated funds so replaced shall become available for loans provided pursuant to this subchapter.

(b) The department shall maintain a default reserve as a portion of the emergency reserve account, in an amount equal to two percent of all allocations to the fund pursuant to Health and Safety Code section 53130(a), for the purpose of avoiding or curing defaults pursuant to section 8099(e).

(c) When funds in the account exceed the two percent default reserve required pursuant to subdivision (b), the department shall advance funds from the account to defray unanticipated cost increases or revenue shortfalls to the extent necessary to preserve fiscal integrity and to maintain rents in accordance with program requirements. All funds so advanced shall be part of the program loan to the sponsor and subject to the same interest rate and terms of repayment.

NOTE: Authority cited: Section 50771.1, Health and Safety Code. Reference: Sections 50771.1 and 53130, Health and Safety Code.

HISTORY

1. New section filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
2. New section refiled 4–26–90 as an emergency; operative 4–26–90 (Register 90, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8–24–90.
3. New section refiled 8–27–90 as an emergency; operative 8–27–90 (Register 90, No. 42). A Certificate of Compliance must be transmitted to OAL by 12–26–90 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 12–19–90 as an emergency pursuant to Health and Safety Code section 50771.3; operative 12–19–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 4–18–91 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–19–90 order transmitted to OAL 1–4–91; disapproved by OAL 2–4–91 (Register 91, No. 13).
6. New section refiled 2–20–91 as an emergency; operative 2–20–91 (Register 91, No. 13). A Certificate of Compliance must be transmitted to OAL by 6–17–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 6–14–91 order including amendment of subsection (c) and repeal of subsection (d) transmitted to OAL 5–15–91 and filed 6–14–91 (Register 91, No. 38).

Subchapter 16. Family Housing Demonstration Program Regulations—Proposition 84

Article 1. General

§ 8110. Purpose and Scope.

(a) This subchapter establishes the Proposition 84 Family Housing Demonstration Program and implements and interprets Chapter 15 (commencing with section 50880) of Part 2 of Division 31, Health and Safety Code, added by Chapter 30 of the Statutes of 1988, as amended by Chapter 1103 of the Statutes of 1989, Chapter 1311 of the Statutes of 1990 and Chapter 100 of the Statutes of 1991.

(b) These regulations establish procedures for the award and disbursement of loans and establish policies and procedures for use of funds allocated to the Family Housing Demonstration Program by section 53130(a)(4) of the Health and Safety Code.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50880, 50881.5, 50882, 50883.5, 50887, 50888.3, 50888.5, 50888.7, 50889.5, 50891, 50891.5, 50893, 50893.3, 50893.5, 50893.7, 50893.9, 50894, 50895, 53130 and 53133, Health and Safety Code; Chapter 16 (commencing with section 7260), division 7, title 1, Government Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8111. Definitions.

In addition to the definitions found in Chapter 2 (commencing with section 50050), of Part 1 of Division 31 of the Health and Safety Code and Subchapter 2 (commencing with section 6910) of Chapter 6.5 of this Title, the following definitions shall apply to this subchapter. In the event of a conflict between the following definitions and those recited above, the following definitions prevail for the purposes of this subchapter:

a. "Account" means the Family Housing Demonstration Account.

b. "Affordable rent" means rent for an assisted unit, determined pursuant to section 8122.

c. "Approved eligible costs" are those eligible costs approved by the Department prior to loan closing.

d. "Article XXXIV approval" means the approval by local electors which must be obtained before a low rent housing project can be developed, constructed, or acquired in any city, town or county in California. This approval is required by section 1 of Article XXXIV of the Constitution of California.

e. "Assisted unit" means a dwelling unit in a community housing development or the personal living space in a congregate housing development which may include one or more bedrooms depending on family size and characteristics. An "assisted unit" is affordable to an eligible household as a result of a payment made by the department pursuant to this subchapter and is both designated for occupancy by an eligible household and either available on a priority basis to, or occupied by, an eligible household in accordance with a Regulatory Agreement between the department and the sponsor entered into pursuant to section 8133(c).

f. "Commercial space" means space used for commercial purposes, excluding space used for a child care center operated pursuant to section 8127.

g. "Community Housing Development" means a development of 20 or more rental or cooperative units on one or more sites which includes the supportive service requirements pursuant to section 8127 and the job training and placement program requirements pursuant to section 8128.

h. "Congregate Housing Development" means a new or rehabilitated, multi-bedroom structure with common living areas, large enough to accommodate two to ten households who share child care, cleaning, cooking and other household responsibilities pursuant to a resident management agreement as described in section 8137.

i. "Conversion" means the alteration of nonresidential space within an existing structure to create a rental housing development.

j. "Debt service coverage ratio" means the ratio of (1) operating income less operating expenses to (2) debt service payments, excluding voluntary prepayments.

k. "Department" means the Department of Housing and Community Development.

l. "Development costs" are the costs of planning, funding and constructing the project as approved by the Department prior to loan closing.

m. "Director" means the Director of the Department of Housing and Community Development.

n. "Distributions" means the amount of cash received from the operation of a rental housing development and available to be distributed pursuant to section 8123 to the sponsor of that rental housing development, or any party having a beneficial interest in the sponsor entity. Distributions do not include payments for debt service, voluntary loan prepayments, operations, maintenance, payments to required reserve accounts, land lease payments to parties that do not have a beneficial interest in the sponsor entity, or payments for property management or other services as set forth in the Regulatory Agreement for the rental housing development.

o. "Elderly" means the same as defined in section 50067 of the Health and Safety Code.

p. "Eligible households" means very low-income households or other lower-income households.

q. "FHDP" means Family Housing Demonstration Program.

r. "Fiscal integrity" means that the total of operating income plus funds released from the operating reserve account pursuant to the Regulatory Agreement is sufficient to: (1) pay all current operating expenses, (2) pay all current debt service (excluding deferred interest), (3) fully fund all reserve accounts established pursuant to the Regulatory Agreement (other than the operating reserve account), (4) maintain a debt service coverage ratio, where specified in the Regulatory Agreement, and (5) pay other extraordinary costs permitted by the Regulatory Agreement. The ability to pay any or all of the annual permitted distribution shall not be considered in determining fiscal integrity.

s. "Handicapped" means the same as defined in section 50072 of the Health and Safety Code.

t. "Household income" means the same as "gross income" as defined in section 6914 of this Title.

u. "Housing cooperative" means the same as "stock cooperative" as defined in section 1351(m) of the Civil Code.

v. "Initial operating year" means the initial period of operation of a rental housing development beginning when the local enforcement agency issues a certificate of occupancy and ending on the last day of the fiscal year of that development.

w. "Lower-income household" means a person or family as defined in section 50079.5 of the Health and Safety Code.

x. "Lower-income nonassisted unit" means a dwelling unit other than an assisted unit which is regulated by virtue of participation in the federal tax credit program (section 42, Title 26 U.S.C.) or state tax credit program (Revenue and Taxation Code, sections 17057.5, 17058, 23610.4 and 23610.5), the HUD Section 202 program (section 1701q, Title 12 U.S.C.), the HUD Section 8 program (section 1437f, Title 42 U.S.C.), or other governmental program where the occupancy and rent restrictions and the term of the occupancy and rent restrictions are equal to or greater than the requirements of the federal tax credit program referenced above.

y. "Lower-income unit" means an assisted unit both designated for occupancy by a low-income household and either available on a priority basis to, or occupied by, a lower-income household.

z. "Nonprofit corporation" means the same as defined in section 50091 of the Health and Safety Code.

aa. "Operating expenses" means the amount annually approved by the department as necessary to pay for the recurring expenses of a rental housing development, such as utilities, maintenance, management, taxes, licenses, supportive services provided pursuant to section 8127, and job training and placement programs provided pursuant to section 8128. Operating expenses does not include debt service, distributions, extraordinary expenses permitted by the Regulatory Agreement or required reserve account deposits.

bb. "Operating income" means all income generated on an annual basis in connection with operation of a rental housing development including rental income for assisted and nonassisted units; rental income for commercial space, laundry and equipment rental fees; rental subsidy payments; payments associated with supportive services provided pursuant to 8127; payments associated with job training and placement programs provided pursuant to 8128; and interest on any accounts related to the rental housing development, with the exception of reserve accounts. "Operating income" does not include draws from the operating reserve fund, security and equipment deposits; or payments for direct or supportive tenant services, other than those provided pursuant to section 8127(a) and (b), that tenants are not required to pay for as a condition of occupancy.

cc. "Other lower-income household" means persons or families as defined in subsection 6928(c) of Title 25.

dd. "Prior to loan closing" is that period of time following the notification of approval for funding pursuant to section 8130(c)(2) and prior to the recording of the legal documents on the project property.

ee. "Program" means the Family Housing Demonstration Program.

ff. "Project" means a rental housing development using program funds; the development, new construction or rehabilitation, and operation thereof; and the financing structure and all agreements and documentation approved in connection therewith.

gg. "Reconstruction" means replacing an existing residential structure with a rental housing development of similar type, amenity level, range of unit sizes, and with not less than an equal number of units.

hh. "Rehabilitation" means repairs or improvements to a substandard rental housing development necessary to correct defects causing it to be a substandard building pursuant to section 17920.3 of the Health and Safety Code, and to meet rehabilitation standards. Rehabilitation also includes reconstruction or conversion.

ii. "Rehabilitation Standards" means (a) the applicable state or local building or housing standard adopted pursuant to the State Housing Law, Part 1.5 (commencing with section 17910) of Division 13, or continued in effect pursuant thereto, and (b) room additions necessary to prevent overcrowding of lower-income households.

jj. "Rent" means all mandatory charges, other than deposits, paid by the tenant for the use and occupancy of an assisted unit. For housing cooperatives, "rent" includes, but is not limited to, the carrying charges paid by a member of a housing cooperative.

kk. "Rent-up costs" means costs incurred in connection with marketing and preparing an assisted unit for occupancy while the unit is on the housing market but not rented to its first tenant.

ll. "Rental housing development" means a community housing development or a congregate housing development.

mm. "Residential structure" means a structure or structures used primarily as the place of permanent or customary abode of a person or persons, including a single family dwelling, a multifamily dwelling, a single room occupancy hotel, a condominium or cooperative housing project, or other form of residential occupancy.

nn. "Rural area" means the same as defined in section 50101 of the Health and Safety Code.

oo. "Seismic rehabilitation improvements" means the same as defined in section 50668.5(b)(5).

pp. "Substandard rental housing development" means a structure or structures used or intended to be used as a rental housing development which is a substandard building pursuant to section 17920.3 of the Health and Safety Code.

qq. "Unit" means either a dwelling unit in a community housing development or the personal living space in a congregate housing development, which may include one or more bedrooms depending on family size and characteristics.

rr. "Very low-income household" means a person or family as defined in section 50105 of the Health and Safety Code.

ss. "Very low-income nonassisted unit" means a dwelling unit other than an assisted unit, which is regulated by virtue of participation in a federal or state tax credit program, the HUD section 202 program, or other governmental programs where the occupancy and rent restrictions and the term of occupancy and rent restrictions are equal to or greater than the requirements for very low-income units contained in the federal tax credit program.

tt. "Very low-income unit" means an assisted unit both designated for occupancy by a very low-income household and either available on a priority basis to, or occupied by, a very low-income household.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50880, 50881.5, 50882, 50883.5, 50887, 50888.3, 50888.5, 50888.7, 50889.5, 50891, 50891.5, 50893, 50893.3, 50893.5, 50893.7, 50893.9, 50894, 50895, 53130 and 53133, Health and Safety Code; Chapter 16 (commencing with section 7260), division 7, title 1, Government Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

Article 2. Program Requirements

§ 8112. Eligible Project.

(a) To be eligible for funding, a proposed project must

(1) involve either of the following:

(A) the development and construction of a new rental housing development, or

(B) the rehabilitation of (which may include seismic improvements to) one or more of the following structures:

1. a substandard rental housing development;

2. a residential structure eligible for seismic rehabilitation improvements pursuant to section 8129;

3. an existing structure that will undergo a conversion; or

4. an existing substandard residential structure that will undergo reconstruction.

(2) include supportive services pursuant to section 8127 and a job training and placement program pursuant to section 8128.

(b) Except as specified in subdivision (c), proposed rental housing developments are ineligible if construction work has begun prior to the effective date of the Standard Agreement. For the purposes of this subdivision, construction work shall not include the following:

(1) for loans involving new construction, site improvements intended for public dedication; demolition; site preparation; and grading;

(2) for loans involving rehabilitation, work required to correct an emergency situation; work done pursuant to an order of the court or agency having jurisdiction over the project; and regular maintenance of the project.

(c) Where construction work, other than that allowed pursuant to subdivision (b), has begun prior to the effective date of the Standard Agreement, proposed rental housing developments are eligible only under the following circumstances:

(1) construction has been halted, and the project property has been foreclosed upon or is in foreclosure;

(2) construction has been halted, and the project property has been deeded to a lender in lieu of foreclosure;

(3) construction has been halted, and there is a substantial likelihood that a lender will initiate foreclosure due to the inability of the project's developer to complete construction; or

(4) construction on a separate distinct phase of the project has been or will be completed without program loan funds; provided that, when completed, either the separate phase or the project as a whole meets all program requirements.

(d) Proposed projects involving the demolition of residential rental units are eligible only if the sponsor complies with the relocation requirements set forth in section 8125 and only if one of the following circumstances exist:

(1) the units to be demolished are substandard, and not economically feasible to rehabilitate; or

(2) the number of assisted units in the new project is at least twice the total number of units in the demolished structures.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50881.5, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8113. Eligible Sponsor.

(a) A sponsor shall be a nonprofit corporation, housing cooperative, local public entity, or any combination thereof including a limited partnership in which the managing general partner is an eligible nonprofit corporation, which is certified by the department as meeting the requirements of subdivision (b).

(b) In order to be certified as an eligible sponsor, an applicant must be able to:

(1) demonstrate ability or experience relevant to owning, developing, constructing or rehabilitating, and operating rental housing through any combination of the following:

(A) prior ownership, development, construction or rehabilitation, or operation of rental housing;

(B) employing staff with demonstrated ability or experience owning, developing, constructing or rehabilitating, or operating rental housing; or

(C) contracting with a consultant or consultants with demonstrated ability or experience assisting with the owning, developing, rehabilitating or constructing, or operating of rental housing; and

(2) demonstrate ability or experience relevant to the proposed plans for operating supportive service programs described in section 8127 and job training and placement programs described in section 8128 through any combination of the following:

(A) prior operation of such programs;

(B) employing staff with demonstrated ability or experience operating such programs; or

(C) contracting with a consultant or consultants with demonstrated ability or experience operating such program;

(3) have site control of the proposed project property by one of the following:

(A) fee title;

(B) a leasehold interest on the project property pursuant to a lease with provisions that enable the lessee to make improvements on and encumber the property and permit compliance with all program requirements;

(C) an option to purchase or an option to lease pursuant to a lease which meets the requirements of subdivision (B) above;

(D) a disposition and development agreement with a public agency with provisions that enable the applicant to make improvements on and encumber the property and permit compliance with all program requirements;

(E) a land sales contract, or other enforceable agreement for the acquisition of the property.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50881.5(h) and 50889.5(b), Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8114. Eligible Uses of Funds.

(a) Funds shall be used only for approved eligible costs that are incurred with respect to the planning and executing of the project as set forth in this section. In addition, the costs must be necessary and must be consistent with the lowest reasonable cost consistent with the project's scope and area.

(b) Eligible categories of costs for projects involving the new construction of a rental housing development include the following:

(1) land acquisition;

(2) acquisition of projects under construction satisfying the requirements of section 8112(c)(1) through (c)(3);

(3) land lease payments;

(4) construction work, including demolition costs satisfying the requirements of section 8112(d);

(5) offsite improvements, such as sewers, utilities and streets, related to the rental housing development;

(6) onsite improvements related to the rental housing development;

(7) architectural, appraisal, engineering, legal, accounting and other consulting costs and fees, which are directly related to the planning and execution of the project and which are incurred through third–party contracts;

(8) administrative expenses pursuant to section 8119;

(9) rent–up costs;

(10) insurance, construction financing fees and interest, taxes, and any other expenses necessary to hold the property while the rental housing development is under construction.

(11) building permits and state and local fees;

(12) initial operating and replacement reserve balances required pursuant to section 8139;

(13) escrow, title insurance, recording and other costs related to the financing of the project;

(14) costs required to assure the completion of construction, such as contractor bond premiums; and

(15) environmental hazard reports, surveys, and investigations.

(c) Eligible categories of costs for projects involving the rehabilitation of a rental housing development include the following:

(1) acquisition of project property, including existing improvements, and costs related to such acquisition;

(2) refinancing of that amount of debt existing at the time of application which is necessary to achieve rents for lower– and very low–income households in accordance with program requirements, and costs related thereto;

(3) reconstruction costs, when the estimated costs including demolition, construction and related activities are less than the estimated cost of rehabilitation of the rental housing development, and where demolition is consistent with the requirements of section 8112(d);

(4) conversion costs when the estimated total rehabilitation cost is less than the new construction cost of comparable units in the area;

(5) cost of rehabilitation necessary to correct code violations;

(6) general costs required to correct unsafe, unhealthy and unsanitary conditions, including general property improvements when the sponsor can demonstrate that such improvements are integral to the project;

(7) work related to protecting physical security;

(8) work related to reducing long–term maintenance costs;

(9) onsite and offsite improvements;

(10) work related to meeting specialized design criteria described in section 8126;

(11) seismic rehabilitation improvements, and work directly related thereto pursuant to section 8129;

(12) architectural, appraisal, engineering, legal, accounting and other consulting costs and fees, which are directly related to the planning and execution of the project and which are incurred through third–party contracts;

(13) administrative expenses pursuant to section 8119;

(14) rent–up costs;

(15) insurance, construction financing fees and interest, and taxes, and any other expenses necessary to hold the property while the rental housing development is under construction;

(16) building permits and state and local fees;

(17) work lawfully required by a governmental entity which is reasonably required to correct unsafe, unhealthy or unsanitary conditions;

(18) relocation benefits and assistance to lower-income residential tenants displaced as a result of acquisition and rehabilitation, or rehabilitation only. All other temporary and permanent relocation benefits specified in section 8125 are not eligible uses of program funds;

(19) escrow, title insurance, recording and other related costs; and

(20) environmental hazard reports, surveys, and investigations.

(d) Except where lawfully required to secure local government approvals essential to completion of the project, costs associated with the following items are ineligible for funding with program loan proceeds, and cannot be paid for from syndication proceeds or loans supported by rents from assisted units:

(1) building and roof shapes, ornamentation, and exterior finish schemes whose costs are in excess of the typical costs of these features in modestly designed rental housing;

(2) fireplaces, tennis courts, and similar amenities not typically found in modestly designed rental housing;

(3) shake and tile roofs, custom-made windows, ceramic tile floors and counters, hardwood floors, and similar features using materials not typically found in modestly designed rental housing, except where such materials have lower replacement costs over the life of the rental housing development due to lower operating, maintenance and replacement costs.

(e) No program funds shall be used for costs associated exclusively with nonassisted units or commercial space. If only a portion of the rental housing development consists of assisted units, the program loan amount shall not exceed the sum of the following:

(1) the costs of all items specified in subdivisions (b) or (c), as applicable, and (d) associated exclusively with the assisted units;

(2) a share of the costs of common areas used primarily by residential tenants; this share shall be in direct proportion to the ratio between the gross floor area of the assisted units and the gross floor area of all residential units; and

(3) a share of the cost of other items, such as roofs, that cannot specifically be allocated to assisted units, nonassisted units, or commercial space; this share shall be in direct proportion to the ratio between the following:

(A) the gross floor area of the assisted units, plus a share of the gross floor area of common areas used primarily by residential tenants in direct proportion to the ratio between the gross floor area of the assisted units and the gross floor area of all units; and

(B) the total gross floor area of the structure or structures.

(f) Notwithstanding subdivision (e)(1), not more than 50 percent of the cost of the child care center may be funded with program funds, except that the cost of all items specified in subdivision (b) or (c), as applicable, and (d) associated with the development of the child care center are eligible for program funding as specified in section 8127(c).

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50881.5(f), 50888.3(e), 50893.3(a) and (b) and 53133, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8115. Type and Term of Loan.

(a) Sponsors shall elect to receive program financing as either combination construction and permanent loans or permanent loans only.

(b) For projects involving new construction, the initial term of the loan shall be not less than 40 years, commencing on the date of initial occupancy of an assisted unit. For projects involving rehabilitation and either acquisition or refinancing, the initial loan term shall be not less than 30 years. For projects involving only rehabilitation, the initial loan term shall be not less than 20 years.

(c) Upon request by the sponsor, the department shall approve a loan term longer than that set forth in subdivision (b) provided that such longer term does not exceed the useful life of the rental housing development as determined by the department utilizing assessments provided by professionals from the construction and real estate industries, such as the conclusions of an appraiser or a structural engineer.

(d) Upon receipt of a request from a sponsor for a ten-year extension of the loan term, the department shall determine whether to approve the request based on the following considerations:

(1) Whether the sponsor is in compliance with the Regulatory Agreement and agrees to continue to comply during the extended term;

(2) Whether the extension is necessary to continue operations consistent with program requirements, and

(3) Whether the extended term does not exceed the useful life of the rental housing development, as determined by the department utilizing assessments provided by professionals from the construction and real estate industries, such as the conclusions of an appraiser or a structural engineer.

(e) The department may condition the extension of such terms as it deems necessary to ensure compliance with the requirements of this program.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50893, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8116. Maximum Loan Amounts.

The loan amount is limited to the total amount of eligible costs required, when considered with other available financing and assistance, in order to achieve all of the following:

(a) to enable the development and construction of the rental housing development;

(b) to ensure that rents for assisted units are in accordance with program requirements;

(c) to operate in compliance with all other program requirements; and

(d) to allow a debt service coverage ratio in an amount sufficient to satisfy the requirements of other lenders providing financing for the rental housing development, but not to exceed 115 percent, except as otherwise required by law.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50880 and 50893, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of law on 4–16–91.

3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.

4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8117. Interest Rate and Loan Repayments.

(a) Loans for development costs shall bear simple interest of three percent per annum on the unpaid principal balance. Loans or advances made pursuant to sections 8140 and 8141 shall be the same interest as calculated annually on the Pooled Money Investment Account created under Government Code section 16480. Interest shall accrue from the date that funds are disbursed by the department to or on behalf of the sponsor.

(b) Accrued interest shall be paid from project cash flow. Such interest, to the extent project cash flow is available, shall be paid to the department commencing on the last day of the initial operating year and continuing on each anniversary thereafter until loan interest and principal is paid full. For purposes of this section, "project cash flow" means operating income remaining after payment of approved operating expenses, regularly scheduled debt service on loans other than the program loan which have been approved by the department and which are to be paid prior to payments on the program loan, deposits into department approved project reserve accounts, and sponsor distributions.

(c) Upon request by the sponsor, at the time of application or any time thereafter, the department shall approve the deferral of accrued interest, due but unpaid because of insufficient project cash flow, for such periods and subject to such conditions as are necessary to enable the sponsor to maintain affordable rents and the fiscal integrity of the project, and pay distributions.

(d) Program loan principal shall be payable annually in accordance with all of the following:

(1) Such payments will not jeopardize the fiscal integrity of the project or the sponsor's ability to maintain rents in accordance with program requirements.

(2) Such payments shall be the lesser of

(A) the amount remaining from project cash flow after paying all current and deferred interest pursuant to subdivision (b) and (c); or

(B) the amount required to fully amortize the loan according to the scheduled term of the loan.

(3) Such payments shall be consistent with a written schedule approved by the department at loan closing or any time thereafter which provides that

(A) for loans involving new construction, the first principal payment shall be due on the thirtieth (30th) anniversary of the loan closing; and

(B) for loans involving rehabilitation, the first principal payment shall be on that date proposed by the sponsor and approved by the department prior to loan closing.

(e) In any year that payments of principal and interest are paid in full in accordance with subdivisions (a), (b), (c), and (d), remaining project cash flow shall be used as follows:

(1) The sponsor shall first pay regularly scheduled debt service on loans other than the program loan which were used to finance assisted units and which have been approved by the department and which are to be paid following payments of the program loan;

(2) Thereafter, the sponsor shall pay project cash flow as either:

(A) prepayments on the program loan; or

(B) payments into the Account, to be prorated among the emergency reserve subaccount described in section 8140 and the feasibility subaccount described in section 8141 in a manner which assures that each subaccount is fully funded.

(f) All program loan payments shall be applied first to interest and second to principal.

(g) The total amount of the outstanding principal and interest, including deferred interest, shall be due and payable in full to the department at the end of the loan term or upon the department's termination of the loan.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50893, Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of law on 4–16–91.

3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.

4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8118. Appraisal and Market Study Requirements.

(a) As a condition of funding, the department shall require an appraisal or market study, or both, where required to achieve the following objectives:

(1) To establish a market value for land and improvements to be purchased or leased as part of the project for purposes of evaluating the reasonableness of the purchase price or lease terms pursuant to section 8114 and determining actual investment pursuant to section 8123;

(2) To assist with establishing reasonable costs for development cost categories pursuant to section 8114; and

(3) To assess fiscal integrity.

(b) Any appraisal required by the department shall be prepared at the sponsor's expense by an individual who

(1) has the knowledge and experience necessary to appraise income property competently;

(2) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible appraisal; and

(3) in reporting the results of the appraisal, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property.

(c) Any market study required by the department shall be prepared at the sponsor's expense by an individual who:

(1) has the knowledge and experience necessary to conduct a market study for rental property competently;

(2) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible market study; and

(3) in reporting the results of the market study, communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true value and condition of the property.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50880, 50881.5(f) and 50893.7(d), Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of law on 4–16–91.

3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.

4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8119. Administrative Expenses.

(a) Administrative expenses are those expenses incurred by the sponsor related to the planning and execution of the project prior to initial occupancy. Such expenses include, but are not limited to the following:

(1) salaries, wages, and related costs of the sponsor's staff engaged in the planning and execution of the project, including legal services, accounting and auditing relating to the sponsor's operations and obtaining financing for the project;

(2) travel costs and other general overhead costs which are attributable to the project;

(3) expenses for administrative services performed for the sponsor and paid for under third-party contracts.

(b) Administrative expenses do not include those legal, architectural, engineering, or financial fees which are directly related to the planning and execution of the project and which are incurred by the sponsor through third-party contracts eligible for funding pursuant to section 8114(b)(7) and (c)(12).

(c) Administrative expenses in amounts equal to or less than the maximum amounts shown in the following schedule shall be deemed reasonable and necessary upon certification by the sponsor that they have been incurred by the sponsor pursuant to this section.

Approved Program Loan Amount	*Maximum Administrative Expenses*
Up to $500,000	5% of the approved program loan amount
$500,000 or more	$25,000 plus 1% of the approved program loan amount over $500,000, up to a maximum of $50,000.

(d) Sponsors seeking program funds for administrative expenses in excess of the limits described in subdivision (c), shall include in their applications a statement of administrative expenses incurred to date, and a budget for anticipated administrative expenses. The statement and budget shall include sufficient detail and explanation to permit the department to determine eligibility and reasonableness of the expenses. The department shall include in the loan amount those administrative expenses shown in the statement and anticipated budget, provided it determines that those expenses are reasonable and necessary considering the nature and scope of the project.

(e) The department shall not fund administrative expenses in excess of 10 percent of the approved loan amount unless the sponsor can demonstrate to the department's satisfaction that costs in excess of this limitation are the result of expenses for architectural, engineering, accounting and legal services, which would otherwise qualify for funding as consultant services pursuant to section 8114(b)(7) or (c)(12), as applicable.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50881.5(f), Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8120. Occupancy Requirements.

(a) In each rental housing development assisted by the program, and for the full term of the program loan, the following requirements shall apply:

(1) Not less than thirty percent of all units shall be assisted units.

(2) Not less than two-thirds of the assisted units shall be very low-income units. The department may approve a lesser percentage if it determines that it is not feasible to achieve fiscal integrity with the required percentage.

(b) In each community housing development assisted by the program, and for the full term of the program loan, not less than twenty percent nor more than thirty percent of the assisted units shall be occupied by elderly persons or households. The balance of units shall be available on a priority basis, or occupied by, families with children. For purposes of this section, "families with children" means one or more individuals, who have not attained the age of 18 years, being domiciled with a parent or another person having legal custody of such individual or individuals; or the designee of such parent or other person having such custody with the written permission of such parent or other person. "Families with children" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(c) In each congregate housing development assisted by the program, and for the full term of the program loan, at least a majority of the units shall be available on a priority basis, or occupied by, families with one or more minor children. The balance of units shall be available on a priority basis, or occupied by elderly persons or households.

(d) For projects involving rehabilitation, a unit in a rental housing development may be designated as an assisted unit if at the time of initial application for the program loan:

(1) the unit is occupied by an eligible household;

(2) the unit is vacant and will be made available to, or occupied by, an eligible household; or

(3) a noneligible household residing in the unit has agreed not to return to the unit after rehabilitation as evidenced by a signed written waiver of the tenant's right to return to the unit pursuant to section 7265.3(d) of the Government Code. Any tenant giving such waiver must have been given the notice specified in section 8125.

(e) For projects involving rehabilitation, the sponsor shall, at a minimum, designate as assisted units the greater of:

(1) number of units reasonably known by the sponsor to be occupied by eligible households at the time of initial application for the program loan, or

(2) thirty percent of all units in the rental housing development.

(f) For projects involving rehabilitation of a community housing development, the size, type, and amenity level of assisted units after rehabilitation shall not differ substantially from the size, type, and amenity level of units known to be occupied by eligible households at the time of initial application for the program loan. Units reconfigured or enlarged to alleviate overcrowding shall not be considered a violation of this provision.

(g) Each community housing development shall include a range of unit sizes, including the provision of three bedroom or larger units.

(h) Assisted units shall not differ substantially in size or amenity level from nonassisted units with the same number of bedrooms, and lower-income units shall not differ from very low-income units. Assisted units shall not be segregated from nonassisted units, and very low-income units shall not be segregated from other lower-income units. Within these limits, sponsors may change the designation of a particular unit from assisted to nonassisted, or lower-income to very low-income, and vice versa, over time.

(i) For the full loan term, the number, size, type, and amenity level of lower-income and very low-income units shall not be fewer than the number nor different from the size, type and amenity level described in the Regulatory Agreement.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50888.3, 50891(a), 50893.3 and 50893.7, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of law on 4–16–91.

3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.

4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8121. Tenancy Standards.

(a) Sponsors shall select only eligible households as tenants of assisted units, and shall annually verify household income and size to determine continued eligibility and appropriate unit size. As part of the management plan required by section 8137(e), the sponsor shall develop a tenant selection plan for assisted units which shall be subject to the approval of the department. Any change to the plan shall be subject to the approval of the department. The plan shall include the following:

(1) an affirmative marketing plan for eligible households which shall include policies and steps to ensure equal access to all housing units in the rental housing development for all persons in any category protected by federal, state or local laws governing discrimination. Where a significant number of persons in the area of the rental housing development have limited fluency in English, the plan shall require that publications implementing the affirmative marketing plan be provided in the native languages of those persons;

(2) reasonable criteria for selection or rejection of applicants which shall not discriminate in violation of any federal, state or local laws or base tenant selection on any other arbitrary factor. Reasonable criteria shall include:

(A) for each rental housing development, a priority to applicants who are employed at nearby facilities or who potentially could be employed at nearby facilities through publicly assisted or other job– training or entry–level employment programs and who are willing to participate in the job training and placement program provided pursuant to section 8128(a); and

(B) for each congregate housing development, the willingness and ability of an applicant to enter into a resident management agreement as described in section 8137;

(C) for each community housing development, a priority to applicants who are employed in the management and operation of the community housing development or its child care center.

(3) a prohibition of local residency requirements; and

(4) tenant selection procedures that include the following requirements:

(A) selection of tenants based on order of application, lottery, or other reasonable method approved by the department;

(B) notification to a tenant applicant of either;

(1) eligibility to occupy an assisted unit and, based on turnover history, the approximate date when a unit may be available;

(2) ineligibility to occupy an assisted unit, the reason for the ineligibility, and the right to appeal this determination pursuant to section 8121(e); and

(C) maintenance of a waiting list of eligible households which have applied to occupy assisted units which if applicable, distinguishes between lower– and very low–income applicants, and elderly households and families with children.

(5) for community housing developments, tenant occupancy standards that shall be used by the sponsor upon both initial occupancy and annual recertification to determine the size of a unit to be occupied by a tenant, as follows:

Unit Size	*No. of Persons in Household* *Minimum*	*Maximum*
0–BR	1	2
1–BR	1	3
2–BR	2	5
3–BR	4	7
4–BR	6	9
5–BR	8	11

(A) A sponsor may assign a unit other than that specified above if the sponsor reasonably determines that special circumstances warrant a variance and the reasons are documented in the tenant's file.

(B) If, upon annual recertification, the tenant's household size has changed and no longer meets the occupancy standards of this subdivision, the household shall be required to move to the next available unit which will meet the requirements of this subdivision.

(6) for congregate housing developments, tenant occupancy standards that require no less than one person and no more than three persons per bedroom, except as approved by the department subsequent to review of unique design features, such as flexible walls.

(b) Upon prior written approval by the department, the sponsor may establish income limits for lower–income units at a level below the upper limit for lower–income households.

(c) In housing cooperatives, share purchase terms for assisted units shall be limited as follows:

(1) For each initial member household, the total share purchase price shall not be more than two–and–one–half percent (2.5%) of the prorated development cost of the unit.

(2) For each subsequent member household, the total share purchase price shall not be more than the sum of the total share purchase price previously charged to the member household selling the share and any share appreciation due to the member household selling the share. Share appreciation shall be at a simple interest rate approved by the department, not to exceed eight percent (8%) per annum of the portion of the total share purchase price actually paid in by the member household selling the share.

(3) Upon occupancy by an initial member household or subsequent member household, the required cash contribution to be applied towards the total share purchase price shall not exceed the lesser of either ten percent (10%) of the member household's income for the calendar year prior to occupancy or the total share purchase price; and in no event shall the cash contribution required upon initial occupancy be less than two times the monthly rent for the unit.

(4) The sponsor may loan members of the housing cooperative the difference between the total share purchase price and the member household's cash contribution. The terms and conditions of such loans shall be subject to department approval.

(d) The sponsor shall submit for department approval the form of the rental or occupancy agreement for assisted units prior to its use. The form shall include the following:

(1) provisions requiring good cause for termination of tenancy. One or more of the following constitutes "good cause":

(A) failure by the tenant to maintain eligibility under the program;

(B) noncompliance by the tenant with material provisions of the rental or occupancy agreement, including one or more substantial violations of the rental or occupancy agreement or habitual minor violations of the rental or occupancy agreement which

1. adversely affect the health and safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities;

2. substantially interfere with the management, maintenance, or operation of the rental housing development;

3. substantially interfere with the supportive service component or the job training and placement component of the project, other than failure to participate, as set forth in section 8127 and 8128, respectively; or

4. result from the failure or refusal to pay, in a timely fashion, rent or other permitted charges when due. Failure or refusal to pay, in a timely fashion, is a minor violation if payment is made during the three-day notice period;

(C) substantial failure or repeated minor failure by a tenant to carry out material obligations under state or local law;

(D) subletting, by the tenant, of all or any portion of the assisted unit;

(E) substantial failure or repeated minor failure by a tenant in a congregate housing development to comply with material provisions of the resident management agreement described in section 8137 or with any rules established by the mutual agreement of the residents of the congregate housing development and the sponsor; or

(F) any other action or conduct of the tenant constituting significant problems which can be reasonably resolved only by eviction of the tenant, provided that the sponsor has previously notified the tenant that the conduct or action in question would be considered cause for eviction. Examples of action or conduct in this category include the refusal of a tenant, after written notice, to accept reasonable rules or any reasonable changes in the rental or occupancy agreement or the refusal to recertify income or household size;

(2) a provision requiring that the facts constituting the grounds for any eviction be set forth in the notice to quit provided to the tenant pursuant to state law;

(3) notice of the appeal and grievance procedures established by the sponsor pursuant to subdivision (e) and incorporation of the procedure by reference;

(4) notice of the right to an informal hearing with the sponsor to review any proposed rent increase pursuant to section 8122;

(5) a requirement that the tenant annually recertify household income and size;

(6) for congregate housing developments, a requirement that the tenant comply with the resident management agreement described in 8137(c).

(e) Each sponsor shall adopt an appeal and grievance procedure to resolve grievances filed by tenants and allow appeals of actions taken by the sponsor with respect to tenants' occupancy in the rental housing development and prospective tenants' applications for occupancy.

(1) the appeal and grievance procedure shall be included in the sponsor's management plan described in section 8137(e) and shall, at a minimum, include the following:

(A) a requirement for delivery of a written copy of the appeal and grievance procedure to each tenant and applicant;

(B) procedures for informal dispute resolution;

(C) a right to a hearing before an impartial body, which shall consist of one or more persons, with the power to render a final decision on the appeal or grievance;

(D) procedures for the appointment of the impartial hearing body;

(E) procedures for conducting such hearing, including the right to present evidence without regard to formal rules of evidence, the right to be represented by any other person and the right to a written decision from the hearing body which shall be based solely on evidence presented at the hearing; and

(F) a requirement that the sponsor extend any time period imposed pursuant to a formal eviction procedure, including any filing in a court of competent jurisdiction, during the pendency of the hearing.

(2) Neither utilization of nor participation in any aspect of the appeal and grievance procedure shall constitute a waiver of or affect the rights of the tenant, prospective tenant, or sponsor to a trial de novo or judicial review in any judicial proceeding which may thereafter be brought in the matter.

(f) If, upon annual recertification, a tenant's household income exceeds the eligibility limit for lower-income households, the tenant's rental or occupancy agreement for the unit as an assisted unit shall terminate six months after the notice of termination which sponsor must provide within one month of recertification.

(1) The sponsor may approve one additional six-month extension of the rental or occupancy agreement if the rental housing development is located in a market area where:

(A) the vacancy rate for rental housing is less than five percent; and

(B) the Fair Market Rent exceeds the average of the Fair Market Rents for all metropolitan statistical areas in California. For purposes of this subsection, "Fair Market Rent" means the most current Fair Market Rent for Existing Housing for two-bedroom units, as published annually in the "Federal Register" by the U.S. Department of Housing and Urban Development pursuant to section 8(c)(1) of the United States Housing Act of 1937.

(2) In rental housing developments containing nonassisted units, the tenant shall have the right of first refusal for any available nonassisted unit of a size consistent with the occupancy standards set forth in section 8121(a)(5) and (6). This right shall begin upon recertification and shall expire upon termination of the tenant's rental or occupancy agreement of the assisted unit.

(3) If the tenant provides to the sponsor additional evidence which establishes income eligibility prior to the expiration of the tenant's rental or occupancy agreement, the tenant's lease shall not be terminated.

(4) If the assisted unit is subject to state or federal rules governing low-income housing tax credits as referenced in section 8111(x) or other federal or state housing assistance, those eligibility provisions shall govern continued eligibility for occupancy, if necessary to permit participation in such programs.

(5) If the tenant's income exceeds the limit for lower-income units established by the sponsor pursuant to subdivision (b), that fact alone shall not be cause for termination of the tenant's rental or occupancy agreement or for requiring the tenant to vacate its unit, if the tenant's income remains below the eligibility limit for lower-income households.

(6) In a limited equity housing cooperative where the household income of a cooperative member occupying an assisted unit exceeds the upper limit for lower-income households, the member shall not be required to vacate the assisted unit.

(A) After recertification and determination of ineligibility, the sponsor shall immediately notify the member that the carrying charge will increase to a market rate payment six months after said notification. Market rate payment shall be the carrying charge paid for a comparable nonassisted unit, without an allowance for utilities, or where there are no comparable nonassisted units, the rent charged for comparable units in the area. This market rate payment shall be subject to department approval.

(B) The next available membership share for occupancy in a comparable unit shall be sold to an eligible household until the mix between lower and very low-income units required by the Regulatory Agreement is achieved.

(g) If the income of a household residing in a very low-income unit changes from very low-income to other lower-income at the time of recertification, the following shall apply:

(1) The household shall not be required to vacate the unit;

(2) The sponsor shall charge rent that does not exceed the current rent allowed for any comparable lower-income unit pursuant to section 8122, or where there are no such units, the maximum rent which would be allowed pursuant to section 8122;

(3) The sponsor shall designate the unit as a lower-income unit; and

(4) The sponsor shall designate the next available comparable assisted unit as a very low-income unit until the mix between lower-income and very low-income units required by the Regulatory Agreement as provided in section 8133(c) is achieved.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50893.7 and 50894, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8122. Rent Standards.

(a) The department shall establish initial rents for assisted units in each community housing development in accordance with the tables in section 6932 and the following:

(1) At the time of initial occupancy of a unit, monthly rents for very low–income units in a community housing development shall not exceed 30 percent of 35 percent of area median income, divided by 12, adjusted by unit size pursuant to subdivision (a)(3), and with an allowance for utility costs pursuant to subdivision (c). The unit size adjustment in subdivision (a)(3) is selected by identifying the size of the unit for which rent must be determined and reading across to determine the applicable household size for that unit. Area median income is determined by selecting from the tables provided in section 6932 for the county in which the unit is located, the amount of income provided as the very low income standard for the "number of persons in the family," which equates with the "applicable household size" identified in subdivision (a)(3).

(2) At the time of initial occupancy of a unit, monthly rents for lower–income units in a community housing development shall not exceed 30 percent of 60 percent of area median income, divided by 12, adjusted by unit size pursuant to subdivision (a)(3), and with an allowance for utility costs pursuant to subdivision (c). The unit size adjustment in subdivision (a)(3) is selected by identifying the size of the unit for which rent must be determined and reading across to determine the applicable household size for that unit. Area median income is determined by selecting from the tables provided in section 6932 for the county in which the unit is located, the amount of income provided as the lower–income standard for the "number of persons in the family," which equates with the "applicable household size" identified in subdivision (a)(3).

(3) Maximum rent calculated pursuant to (a)(1) and (a)(2) above shall be adjusted by unit size as follows:

Unit Size	*Applicable Household Size to Determine Rent Limit*
0 bedroom	1 person
1 bedroom	2 persons
2 bedrooms	3 persons
3 bedrooms	4 persons
4 bedrooms	6 persons
5 bedrooms	8 persons

(b) The department shall establish initial rents for assisted units in each congregate housing development in accordance with the tables in section 6932 and the following:

(1) At the time of initial occupancy of a unit, monthly rents for very low–income units in a congregate housing development shall not exceed 30 percent of 35 percent of area median income adjusted by unit size pursuant to subdivision (a)(3), divided by 12 and with an allowance for utility costs pursuant to subdivision (d). For the purpose of determining initial rents, the sponsor shall configure the congregate housing development into enough units so that two to ten households can be accommodated in accordance with the occupancy requirements contained in subdivision 8121 (a)(6) and as approved by the department. The unit size adjustment in subdivision (a)(3) is selected by identifying the size of the unit for which rent must be determined and reading across to determine the applicable household size for that unit. Area median income is determined by selecting from the tables provided in section 6932 for the county in which the unit is located, the amount of income provided as the very low–income standard for the "number of persons in the family," which equates with the "applicable household size" identified in subdivision (a)(3).

(2) At the time of initial occupancy of a unit, monthly rents for lower–income units in a congregate housing development shall not exceed 30 percent of 60 percent of area median income adjusted by unit size pursuant to subdivision (a)(3), divided by 12 and with an allowance for utility costs pursuant to subdivision (d). For the purpose of determining initial rents, the sponsor shall configure the congregate housing development into enough units so that two to ten households can be accommodated in accordance with the occupancy requirements contained in subdivision 8121 (a)(6) and as approved by the department. The unit size adjustment in subdivision (a)(3) is selected by identifying the size of the unit for which rent must be determined and reading across to determine the applicable household size for that unit. Area median income is determined by selecting from the tables provided in section 6932 for the county in which the unit is located, the amount of income provided as the lower–income standard for the "number of persons in the family," which equates with the "applicable household size" identified in subdivision (a)(3).

(c) The maximum rent to be charged to tenants in assisted units in community housing developments shall be determined by deducting from the maximum amounts calculated pursuant to (a)(1), (a)(2), and (a)(3) a utility allowance for the appropriate unit size. The utility allowance shall be the allowance for monthly utility costs made or approved by the U.S. Department of Housing and Urban Development pursuant to 24 CFR § 813.102. In order to obtain the current utility allowances for cities and unincorporated areas located in the following counties, please contact the Department of Housing and Community Development, Attention: Housing Assistance Program, Post Office Box 952054, Sacramento, CA 94252–2054 or phone (916) 324–7696:

Amador	Calavaras	Colusa	El Dorado
Glenn	Inyo	Lassen	Lake
Mendocino	Modoc	Mono	Nevada
Placer	Sierra	Siskiyou	Trinity
Tuolumne			

Utility allowances for the balance of cities and unincorporated areas in California not located in the above noted counties may be obtained by contacting the Housing Authority established for that county pursuant to section 34240 of the Health and Safety Code.

(1) Where a tenant does not directly pay for utilities, the utility allowance deduction shall be zero.

(2) Upon demonstration by the sponsor that the amount of utility cost per unit anticipated for the proposed project differs from the amount of the utility allowance per unit derived pursuant to subdivision (c), the department shall allow as a utility allowance use of the utility cost per unit demonstrated by the sponsor. The demonstration by the sponsor shall consist of the submittal of actual utility usage cost data per unit for an existing project constructed within the last five years, of the same type of construction as the proposed project, and with the same type of tenant population as the proposed project.

(d) The maximum rent to be charged to tenants in assisted units in congregate housing developments shall be determined by deducting from the maximum amounts calculated pursuant to (b)(1) and (b)(2), a utility allowance determined according to a methodology approved by the department prior to loan closing and based on the allocation of probable actual cost of utilities to households residing in the congregate housing development. Such methodology shall incorporate actual utility usage cost data per unit for an existing project constructed within the last five years, of the same type of construction as the proposed project, and with the same type of tenant population as the proposed project.

(e) For projects involving the rehabilitation of a rental housing development, the after–rehabilitation rent for an assisted unit occupied by an eligible household at the time of initial application to the program may not exceed the greater of the rent charged at the time of initial program application, or twenty–five percent (25%) of the subject tenant household's monthly gross income. In no event is the rent to exceed that which would be charged pursuant to subdivisions (a) and (b), or (c) and (d) above.

(f) As used in this section "rent" does not include any payment to a sponsor under section 8 of the United States Housing Act of 1937 or any comparable federal or state rental assistance program.

(g) After the initial operating year, rents for assisted units may be adjusted no more often than annually. The amount of adjustment shall be in accordance with the following:

(1) Rents may be increased at a rate not to exceed the most recent annual average percentage change in the Western Region for residential rents for all urban consumers as published by the United States Department of Labor, Bureau of Labor Statistics in the monthly publication, "CPI Detailed Report," multiplied by the ratio of the previous year's budgeted operating expenses attributed to assisted units, plus required reserves attributed to assisted units, to the previous year's budgeted operating income attributed to assisted units.

(2) In addition to the rent increase allowed pursuant to subdivision (g)(1), rents for assisted units shall be increased by an amount not to exceed the amount necessary to increase the operating income to cover changes in debt service

(A) on an adjustable rate loan secured by a mortgage on the rental housing development, which was approved by the department as part of the original project; or

(B) resulting from a refinancing of a loan for the project approved by the department pursuant to subsection 8135(c).

(3) Notwithstanding the provisions of subsections (g)(1) and (g)(2), rents shall be decreased, or the amount of the otherwise allowable increase reduced, if there is a reduction in the amount of required payments on an adjustable rate loan secured by a mortgage on the rental housing development due to a decrease in the interest rate for that loan or a reduction in operating costs. The aggregate monthly amount of this rent decrease, or reduction in an otherwise allowable increase, shall be equal to the amount of the monthly payment reduction attributable to assisted units.

(4) Any rent adjustment at the end of the initial operating year shall be prorated based on the length of the initial operating year.

(h) The sponsor shall be allowed to implement a greater rent increase for assisted units than that allowed in subdivision (g) if the sponsor can demonstrate, to the department's satisfaction, that the increase is necessary to pay for unusual or unforeseeable increases in costs related to the assisted units and to preserve fiscal integrity. The sponsor shall not receive a greater rent increase on the grounds that fiscal integrity is threatened by a shortfall in income, unanticipated expenses or other financial problems attributable to commercial space, nonassisted units, any supportive service, or the job training and placement program.

(i) Any allowable rent increase or portion thereof not implemented in assisted units by the sponsor in any given year shall not be accumulated for implementation in subsequent years.

(j) Where the assisted units are rent restricted as a condition of receiving low-income housing tax credits or other state or federal rent subsidy programs, the initial rent for assisted units and subsequent rent increases shall be the lower of those permitted under this section or those permitted under the applicable tax credit or other program.

(k) The sponsor shall submit requests for rent adjustments pursuant to subdivision (g) or (h) above as part of the annual operating budget pursuant to section 8138. If the department doesn't respond within sixty days of receipt of the request, the request is deemed approved.

(l) Sixty days prior to the time any rent adjustment is effective, the sponsor shall provide written notice to eligible households of the adjustment and the availability of informal meetings with the sponsor to review the proposed rent adjustment. Upon request by any affected tenant, the sponsor shall provide, in a timely manner, the information submitted to the department pursuant to subdivision (g), (h) and (k).

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50881.5(b) and 50893.7(h), Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8123. Limits on Distributions.

(a) Sponsors other than governmental entities shall be allowed to distribute earnings from the assisted portion of the rental housing development in an annual amount no greater than 8 percent of its actual investment in the assisted portion. A sponsor shall not be subject to any limitation on the amount of distribution it receives from the nonassisted portion of the rental housing development. For purposes of this section, the assisted portion includes assisted units; the prorated share of common space, determined pursuant to section 8114(e)(2); and the child care center, if program funds are used to develop all or any portion of the child care center. The nonassisted portion includes units which are not assisted units; the prorated share of common space attributable to those units, determined pursuant to section 8114(e)(2); any commercial space; and the child care center, if no program funds are used to develop the child care center.

(b) Except as noted in subdivision (c), actual investment, for the purposes of this section, includes cash and the market value of property contributed to the assisted portion of the project by the sponsor. For projects receiving state or federal low-income housing tax credits, the amount of actual investment recognized by the department for the purpose of calculating allowable distributions shall not exceed fifteen percent of the total project development costs of the assisted portion of the project. Actual investment does not include any payments of project funds to the sponsor. In syndicated projects, actual investment shall be net syndication proceeds as defined in section 8124.

(c) For a project involving only rehabilitation and no acquisition or refinancing, actual investment is determined as follows: the market value of the rental housing development prior to rehabilitation, as determined in an appraisal, less outstanding debt prior to rehabilitation, plus any cash contributions to the project made by the sponsor, multiplied by the ratio of the assisted portion to the entire rental housing development.

(d) A sponsor may not accumulate distributions from year to year. A sponsor may deposit all or a portion of the amount permitted for distributions into a project account for distribution in subsequent years. Such future distributions shall not reduce the otherwise permitted distribution in those subsequent years.

(e) In its initial operating budget, the sponsor shall demonstrate to the department the amount of the sponsor's actual investment on which the allowable distribution will be calculated. The actual investment amount shall be increased in subsequent budgets upon a showing of additional actual investment advanced by the sponsor.

(f) Distributions shall be permitted only after the sponsor submits a complete annual report and operating budget and the department determines that the report and budget demonstrate compliance with all program requirements for the applicable year. Circumstances under which no distributions shall be made include:

(1) when written notice of default has been issued by any entity with an equitable or beneficial interest in the rental housing development;

(2) when the department determines that the sponsor has failed to comply with the department's written notice of any reasonable requirement for proper maintenance or operation of the rental housing development;

(3) if all currently due and payable debt service and operating expenses have not been paid; and

(4) if the replacement reserve account, operating reserve account, or any other reserve accounts are not fully funded pursuant to section 8139 and the Regulatory Agreement.

(g) Distributions of income attributed to the nonassisted portion of the rental housing development shall not be subject to the requirements of subdivisions (a) through (d).

(h) When operating income is greater than approved operating expenses, regularly scheduled debt service, scheduled reserve deposits, approved prepayments, approved annual distributions, and any other disbursements approved by the department, then the department shall require that such excess be paid into the Account. For purposes of calculating the amount of excess funds pursuant to this subdivision, operating income and expenses shall not include income or expenses from commercial space or the nonassisted portion of the rental housing development.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50893.7, Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8124. Syndication.

(a) In the event that the project is syndicated during the term of the program loan, the total amount of syndication proceeds retained by the sponsor, or any affiliates of the sponsor, in the form of fees or payments of any kind, shall not exceed 25 percent of net syndication proceeds. Net syndication proceeds shall be calculated by deducting from gross syndication proceeds all reasonable and ordinary costs of syndication, including accounting, printing, financial consultant fees, legal fees, interest and fees on gap financing used to pay development costs approved by the department, syndicator fees, and government fees associated with creating a limited partnership and securing tax credit allocations.

(b) Not less than 75 percent of any available net syndication proceeds shall be applied toward project development costs approved by the department, exclusive of any fees or payments retained by the sponsor or its affiliates, and, then, to the extent that funds are available, toward payment or prepayment, as applicable, of program loan interest and principal.

(c) Upon demand by local public agencies that have contributed or loaned funds towards project development costs, net syndication proceeds that would otherwise be applied towards program loan payments may be allocated among these agencies and the department in amounts in direct proportion to the ratio between the amount of their contributions or loans and the amount of the program loan.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50893.7(d), Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8125. Relocation Requirements.

(a) For projects involving the new construction of a rental housing development, the following shall apply:

(1) The sponsor of a project resulting in displacement of residential tenants shall be solely responsible for providing the assistance and benefits set forth in this subdivision (a), and shall agree to indemnify and hold harmless the department from any liabilities or claims for relocation related costs.

(2) All tenants in occupancy in a property who are temporarily or permanently displaced as a direct result of the development of the project shall be entitled to relocation benefits and assistance as provided in chapter 16 (commencing with section 7260) of Division 7 of Title 1 of the Government Code. Displaced tenants who are not eligible households under this program shall be provided relocation benefits and assistance from funds other than program funds.

(3) The sponsor shall prepare a relocation plan in conformance with the provisions of section 6038(b) of this Title based on the scope of the project and the extent of anticipated temporary or permanent displacement. The relocation plan shall be subject to the review and approval of the department prior to the disbursement of program funds.

(4) All eligible households who are permanently displaced as a direct result of the development of the project shall be entitled, upon initial occupancy of the rental housing development, to occupy assisted units subject to the tenant occupancy standards set forth in section 8121.

(5) All households which are not eligible households who are permanently displaced as a direct result of the development of the project shall be entitled, upon initial occupancy of the rental housing development, to occupy any available nonassisted units.

(6) Notwithstanding the preceding paragraphs, tenants who are notified in writing prior to their occupancy of an existing unit that such unit may be demolished as a result of funding provided under the program shall not be eligible for relocation benefits and assistance under this section. The form of any notices used for this purpose shall be subject to department approval.

(b) For projects involving the rehabilitation of a rental housing development, the following shall apply:

(1) It shall be the sponsor's responsibility to ensure compliance with the relocation provisions set forth in this subdivision (b). Loan funds may be used for relocation costs attributable to the relocation of lower-income tenants as a result of the rehabilitation activities, including the payment of benefits required by this subdivision. The department may authorize increases in the sponsor's approved loan amount for the purposes of paying eligible relocation costs attributable to lower-income households, which could not be reasonably foreseen by the sponsor at the time of application. Eligibility for relocation benefits and the amount of benefits to be paid shall be determined as set forth in this subdivision, although additional requirements may be imposed by applicable federal, state, or local laws.

(2) All tenants in occupancy in a property who are permanently displaced as direct result of an acquisition funded in whole or in part with program funds shall be entitled to relocation benefits as provided in sections 7260, 7261, 7262, 7264, 7264.5, 7269, 7269.1, 7272, and 7272.3 of the Government Code.

(3) In the case of an acquisition funded in whole or in part with program funds, all existing residential tenants as well as residential tenants who were in occupancy on the date that the sponsor entered into the binding agreement for the purchase of the property shall be provided with a notice as specified herein no later than the date of application to the department for program funds. The notice shall contain all the following statements:

(A) that the sponsor has entered into an agreement to purchase the property;

(B) that the sponsor is applying for public funds for the purpose of acquiring and rehabilitating the property;

(C) that if the sponsor's application is funded and the rehabilitation work requires temporary relocation, all residential tenants will be entitled to return to their units; will be entitled to temporary relocation benefits; and if low and moderate income as defined in section 50093 of the Health and Safety Code, will not have any rent increases during the period of one year from the completion of the rehabilitation work which result in a rent that is greater than twenty–five percent of their incomes.

(D) that all residential tenants who are permanently displaced as a direct result of the acquisition may be entitled to financial benefits, which could include moving expenses and rent differential during the period of displacement as required by law;

(E) that if the application is funded, the sponsor will be required as a condition of funding to conduct a tenant survey including a verification of tenant's incomes and that a tenant's failure to provide complete and accurate information may result in the loss of some of the financial benefits described above; and

(F) whom to contact for further information or to make a claim.

(4) Any residential tenant who was in occupancy at the time of application to the department for funds and who is displaced to accommodate rehabilitation work shall be provided with temporary housing benefits for a period of up to 90 days, and shall be given the option of returning after rehabilitation to the unit from which he or she was displaced.

(5) Any residential tenant whose household income is low or moderate as defined in section 50093 of the Health and Safety Code shall be entitled to the following benefits and shall be subject to the following additional provisions:

(A) After–rehabilitation rents may not be raised to a level which exceeds twenty–five percent of that household's income for 12 months subsequent to the completion of rehabilitation. A tenant whose income is low or moderate, but refuses to provide the income information necessary to establish rents pursuant to this subparagraph, shall not be eligible for relocation benefits due to an increase in rent in excess of that permitted by this subparagraph. Income surveys to ensure compliance with the requirements of this paragraph and applicable relocation laws shall be completed prior to disbursement of program funds.

(B) A residential tenant or household whose income is low or moderate as defined in section 50093 of the Health and Safety Code shall be entitled to all relocation benefits provided pursuant to sections 7260, 7261, 7262, 7264, 7264.5, 7269, 7269.1, 7272, and 7272.3 of the Government Code if such tenant or household is permanently displaced as a direct result of the rehabilitation work.

(C) A residential tenant or household whose income is low or moderate as defined in section 50093 of the Health and Safety Code and whose temporary displacement exceeds 90 days shall be deemed permanently displaced and may elect to receive benefits on a monthly basis while retaining the right to reoccupy the previously occupied unit. When a tenant elects to receive his or her permanent relocation benefits pursuant to this subparagraph on a lump sum basis, the tenant shall be presumed to have waived his or her right to return to the unit upon completion of the rehabilitation.

(6) All residential tenants shall be given a notice which specifies their rights pursuant to this subdivision no later than the time of application to the department for program funds. Any tenant's waiver of a right set forth in this subdivision (b) must be in writing and must specify in detail the relocation rights being waived.

(7) Any nonresidential tenant at the time of application by the sponsor to the department for program funds shall be entitled to relocation assistance and benefits to the extent required by applicable law from funds other than program funds.

(8) The sponsor shall prepare a relocation plan in conformance with the provisions of section 6038(b) of this Title based on the scope of the project and the extent of anticipated displacement. The relocation plan shall be subject to the review and approval of the department prior to the disbursement of program funds.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: chapter 16 (commencing with section 7260), division 7, title 1, Government Code; section 50880, Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8126. Construction Requirements.

(a) The department shall review and underwrite project plans and specifications to ensure the following objectives:

(1) The rental housing development shall have a minimum useful life at least equal to the term of the loan;

(2) Maintenance, repair, and replacement costs shall be minimized during the useful life of the rental housing development through use of durable, low maintenance material and equipment and design features that minimize wear and tear.

(3) Operating costs shall be minimized during the useful life of the rental housing development.

(4) Tenant security shall be facilitated through features such as those designed to prevent or discourage unauthorized access and to allow for ready monitoring of public areas.

(5) Unit sizes, amenities, and general design features shall not exceed the standard for new developments rented at or below the market rent in the area of the project, and unit density shall not be substantially less than the average for new developments with such units.

(6) The ability of households to care for their children shall be facilitated by unit and site design, such as siting or windows to facilitate watching children, and the use of appliances, such as intercom systems.

(7) Elderly and handicapped accessibility shall be facilitated by features and designs which at a minimum, meet the standards of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601–3619 as amended by Pub. L. 100–430, approved September 13, 1988), and the regulations promulgated thereunder, regardless of whether the rental housing development is "for first occupancy after March 13, 1991" as provided in those regulations.

(b) The sponsor shall ensure that the construction work for the project shall be performed in a competent, professional manner at the lowest reasonable cost consistent with the project's scope, design and locality and at an aggregate cost not in excess of the total funds available. The sponsor may demonstrate the reasonableness of the proposed cost by soliciting written bids based on a bid package distributed to potential contractors located in the general area of the rental housing development or by the use of other methods which adequately demonstrate to the department's satisfaction that the costs are reasonable. Such bid package or other method shall include at a minimum:

(1) complete plans and specifications for the work; and

(2) a full description of the program requirements for construction, including the required provisions of the construction contract.

(c) The sponsor shall enter into a written contract with the selected contractor. The contract shall be subject to the prior approval of the department to determine compliance with program requirements.

(d) The construction contract shall be a completely integrated agreement containing all the understandings, covenants, conditions and representations between the parties and, at a minimum, contain provisions which:

(1) require that the contractor complete the work in accordance with the plans and specifications approved by the department and applicable local, state and federal laws, regulations and building codes and standards;

(2) require the contractor to proceed with and complete the work in accordance with the schedule for work approved by the department;

(3) specify a total contract price consistent with the project budget approved by the department;

(4) provide for a method of payment to the contractor consistent with program requirements which shall include progress payments and retentions;

(5) require that the contractor provide a payment bond securing payment to persons providing goods or services to the project and a performance bond securing faithful completion of the work. Each bond shall be in an amount equal to 100 percent of the total contract price and include the department as a dual obligee. The department shall waive the payment and performance bond requirements, or reduce their scope, upon the sponsor's either:

(A) providing alternative security for payment and performance under the construction contract which is substantially equivalent to the bond requirements; or

(B) demonstrating that the bonds, or the full amount thereof, are not necessary to protect the interests of the department and ensure completion of the work;

(6) permit the sponsor and the department and their designated agents and employees the right to inspect the project site and all books, records and documents maintained by the contractor in connection with the project;

(7) require the contractor to provide insurance coverage consistent with the program requirements and other applicable law;

(8) obligate the contractor to warrant the work for a period of not less than one year;

(9) require that the contractor pay all amounts when due for labor, work performed under a subcontract, and materials, supplies and equipment provided to the project;

(10) provide for the assignment of the construction contract to the department upon sponsor's breach of the Development Agreement;

(11) when program funds are provided as new construction financing, require that the contractor comply with state prevailing wage law, as set forth in Labor Code section 1720 et seq.; and

(12) include such special conditions applicable to the construction contract as may have been imposed in connection with the department's approval of the project for funding.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50888.3, 50893, 50893.5 and 50893.7, Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8127. Supportive Services Requirements.

(a) Each community housing development shall include the following features:

(1) a child care center which

(A) shall be built in accordance with state law as provided in Chapters 3.4 and 3.5 (commencing with sections 1596.70 and 1596.90 respectively) of Division 2, Health and Safety Code;

(B) shall be operated in compliance with state law as specified in Chapters 3.4 and 3.5 (commencing with sections 1596.70 and 1596.90 respectively) of Division 2, Health and Safety Code, and may be operated either directly by the sponsor or by a separate entity contracting with the sponsor, provided that all contracts or lease agreements for the operation of the child care center shall be subject to department approval;

(C) shall be licensed to care for at least the number of children expected to reside in the rental housing development; this number shall be calculated according to the following:

Unit size	*# of Children*
1 bedroom	0
2 bedroom	1
3 bedroom	2
4 bedroom	3

The sponsor may propose another reasonable method for calculating this number, such as the number of children on an existing waiting list;

(D) provides care at a rate prior to closing, which is affordable to households residing in assisted units based on the household's gross monthly income and family size, as approved by the department. For purpose of this section, a rate shall be considered affordable if the fee charged to the household does not exceed the amount published in the most recent Family Fee Schedule CD–2600 or such other fee schedule utilized by an agency which provides subsidies to the child care center or to households using the child care center to care for their children; The Family Fee Schedule CD–2600 is established pursuant to section 8263(f), Education Code and is available by written request to the California Department of Education, Child Development Division, P.O. Box 944272, Sacramento CA 94244–2720, or by phone (916)322–6233.

(E) gives priority for space in the child care center as follows:

1. first to residents with children in assisted units who require child care because of current or impending employment or to participate in the job training and placement program described in section 8128; and

2. secondly to other residents with children who require child care because of current or impending employments;

(2) a children's play area which can accommodate at least the estimated number of children residing in the rental housing development calculated pursuant to (a)(1)(C) above in accordance with chapter 3.5 (commencing with section 1596.90), division 2, Health and Safety Code;

(3) a common facility which is available on a reasonable basis to all residents of the community housing development for community purposes, such as shared meals, job training programs, or social functions. The common facility may also be used as the child care center.

(4) At least one washer and dryer accessible for every ten units in the community housing development.

(b) A sponsor of a congregate housing development shall implement supportive services through a plan which provides for supportive services at a maximum feasible level consistent with the size, design and purpose of the proposed congregate housing development. Prior to loan closing, the plan must be approved by the department. At a minimum, the plan shall:

(1) assist each household which requires child care because of employment or to attend employment training programs to find affordable child care;

(2) provide adequate common space to accommodate community purposes such as sharing of meals or child care;

(3) provide at least one washer and dryer in a common space; and

(4) demonstrate that the project provides an outside play area for households with children, or is located in close proximity to a playground, park, or similar facility.

(c) Upon demonstration by a sponsor that a reasonable attempt was made to obtain other funds for the construction of the child care center, the department shall allow program funds to pay for eligible costs associated with the child care center not funded by other sources. A sponsor may demonstrate that a reasonable attempt was made by making application to and receiving responses from three sources who provide construction financing for child care centers other than the department.

(d) For projects that include an on-site child care center, the sponsor shall develop a management plan for the center, subject to department approval, prior to loan closing. The plan shall be consistent with this subchapter and shall include the following:

(1) a description of the role and responsibility of the sponsor in managing a child care center;

(2) a description of the role and responsibility of either the management agent or lessor, if a separate entity will be either managing the child care center or leasing the child care center from the sponsor in order to meet the requirements of (a)(1) above on behalf of the sponsor;

(3) the proposed child care center management agreement or lease, if any;

(4) a description of the age groups, and numbers of children within each age group, for which care will be provided at the center;

(5) a description of the hours of operation at the child care center;

(6) personnel policy and staffing arrangements for the sponsor, any management agent of the child care center, and any leaseholder of the child care center;

(7) plans and procedures for publicizing and achieving early and continued use of the child care spaces;

(8) a description of the placement preferences for children in the child care center, pursuant to (a)(1)(E) above;

(9) child care fee collection policies and procedures, including procedures for annually determining the appropriate child care fee for each household residing in an assisted unit, pursuant to (a)(1)(D) above;

(10) a description of a program for maintaining adequate accounting records and handling necessary forms and vouchers;

(11) complaint procedures;

(12) equal opportunity provisions that apply to hiring staff and placement of children in the child care center;

(13) plans for carrying out an effective maintenance and repair program for the child care center; and

(14) provisions for periodic update of the child care center management plan.

(e) The department shall allow a sponsor to include additional supportive services which are appropriate to the needs of the residents. These may include, but are not limited to the following:

(1) a supportive services needs assessment for each household;

(2) health care;

(3) mental health counseling;

(4) parent education;

(5) classes on living skills, budgeting and money management;

(6) conflict resolution;

(7) recreational programs; and

(8) services appropriate for elderly or handicapped residents.

(f) Participation by tenant in any supportive service program described in this section shall not be a condition of occupancy for residents in rental housing developments.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50888.7, 50891.5 and 50893.9(a), Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8128. Job Training and Placement Program Requirements.

(a) The sponsor shall submit for department approval, as part of the application and again prior to loan closing, a job training and placement program available to eligible households which shall include the following components:

(1) an ongoing effort to assess employment opportunities in the area;

(2) an individual vocational assessment program which will assist a resident in evaluating the types of employment that are available, the types of employment that the resident is interested in pursuing, and the education and skills training appropriate to the employment goals;

(3) training that provides remedial education in English, reading, writing, mathematics, and science, as well as skills development in the types of employment opportunities that are generally available in the area;

(4) training to develop job interview skills, such as resume writing, personal appearance and presentation skills;

(5) a job placement component; and

(6) a detailed timeline indicating full implementation of the program within 18 months of initial occupancy of the first assisted unit in the rental housing development.

(b) The sponsor shall implement the job training and placement program described in subdivision (a) either directly or through a consultant or consultants pursuant to a contract which is subject to the approval of the department. Implementation of the program may involve a system of referrals to other agencies that will provide the services set forth in subsection (a) to the eligible households. Prior to loan closing, the sponsor shall submit evidence of commitments for funding or services necessary to implement the job training and placement program described in subsection (a).

(c) The sponsor of a rental housing development shall propose and implement a program of job training and placement within the rental housing development. Such a program shall include:

(1) an identification of positions available in the management and operation of the rental housing development, including the child care center, the job training and placement program, and the on-site resident manager, if any; and

(2) a program to provide training opportunities to eligible households for the positions identified in (c)(1);

(3) a hiring preference in the positions identified in (c)(1) for eligible households of the rental housing development; and

(4) a detailed timeline indicating full implementation of the program within 18 months of initial occupancy of the first assisted unit in the rental housing development.

(d) Failure to participate in job training and placement programs described in subdivisions (a) and (c) shall not constitute "good cause" for termination of the tenancy of a resident in a rental housing development.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50888.5 and 50891.5, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8129. Seismic Rehabilitation Improvement.

To be eligible to receive program funds for seismic rehabilitation improvements, a project must either:

(a) involve a structure which is identified as a potentially hazardous building by the local agency in which it is located, pursuant to section 8875.1 of the Government Code; or

(b) involve a structure identified as hazardous in accordance with a previously adopted city or county seismic safety ordinance adopted pursuant to section 19163 of the Health and Safety Code.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50881.5(f).

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

Article 3. Application Procedures

§ 8130. Application Process.

(a) The department shall issue a Notice of Funding Availability (NOFA) which specifies the schedule for rating and ranking applications, and awarding funds at least once every three months; the amount of funds available in each award cycle; application requirements; the allocation of rating points; and the general terms and conditions of funding commitments. Applications in response to each NOFA will be accepted on a continuous basis.

(b) Within 45 days of the receipt of an application, the department shall provide the applicant with written notice indicating whether the application is complete pursuant to section 8131(c) and eligible for rating and ranking pursuant to section 8132(a).

(1) If the application is not complete, but has not been determined to be ineligible for rating and ranking, the notice shall specify the information or documentation necessary to complete the application. Within 15 days of the receipt of any additional information or documentation from the applicant, the department shall provide the applicant with written notice indicating whether the additional information or documentation is sufficient to determine that the application is complete.

(2) If the application is not eligible for rating and ranking, the notice shall provide an explanation of the reasons for this determination.

(c) Funding decisions shall be based on a rating and ranking of applications determined to be complete and eligible for rating and ranking pursuant to subdivision (b).

(1) An application must be received by the department and determined to be complete and eligible for rating and ranking at least 45 days prior to the completion of the next scheduled period of rating and ranking to be assured of consideration in that rating and ranking.

(2) Within 15 days following the completion of each rating and ranking, the department shall provide each applicant with a written notice indicating whether its application has been approved for funding. If an application is not approved, the notice shall include an explanation of the rating and ranking and the reasons for the disapproval.

(d) A project selected for funding shall be approved for a loan in the amount, for the term, and subject to the conditions specified by the department.

(e) At least 20 percent of all program funds loaned by the department shall be allocated to rural areas, to the extent that applications are made from sponsors with projects located in rural areas and such applications receive at least 60 percent of the total possible priority points during rating and ranking.

(f) The department shall award approximately one–half of the available funds to projects located in the southern portion of the state and the balance to projects located in the northern portion of the state.

(1) The southern portion of the state includes the counties Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura.

(2) The northern portion of the state includes the remaining counties of the state.

(g) The department shall award not less than 25 percent, nor more than 35 percent, of the funds to develop congregate housing developments.

(h) If necessary to satisfy the distribution requirements specified in subdivisions (e), (f) and (g), the department shall do one or more of the following:

(1) issue a special NOFA for rural projects, for projects located in the southern or northern portion of the state, or for congregate housing development or for community housing developments;

(2) award bonus points to rural projects, for projects located in the southern or northern portion of the state, or for congregate housing development or for congregate housing developments;

(3) reserve a portion of funds specified in the NOFA for rural projects, for projects located in the southern or northern portion of the state, or for congregate housing development or for community housing developments.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50882(c), 50887, 50889.5 and 50891, Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8131. Application Requirements.

(a) Application shall be made on form HCD 793, dated 6/91, Family Housing Demonstration Program Loan Application as set forth in subsection (b) This form is provided by the department.

(b) Form HCD 793, dated 6/91, Family Housing Demonstration Program Loan Application:

HCD 793, 6/91

FAMILY HOUSING DEMONSTRATION PROGRAM
LOAN APPLICATION

Project Name

Project Location Zip Code:

Applicant *

Address County

Contact Person

Applicant Telephone ( ) FAX # (if available): ( )

Consultant/Application Preparer

Consultant Telephone ( ) FAX # (if available): ( )

* The applicant must be a currently organized legal entity.

Instructions: Fill out the application completely. If an attachment is included with the application, check the "yes" column in the checklist below. If an attachment is not included, check "no" and note the reason on the "comments" line. Please use labeled tabs for all attachments, organized according to this checklist, with attachments placed at the end of the complete application.

		YES	NO	COMMENTS
A.	Project Summary			
No Attachments				
B.	Applicant			
Attachment B1a	Partnership Agreement			
Attachment B1b	Financial Statements			
Attachment B1c	Resolution/Authorization			
Attachment B3	Applicant's Staff			
Attachment B4	Development Team			
Attachment B5	Property Management			
Attachment B6	Development Experience			
Attachment B7	Ownership Experience			
Attachment B8	Applicant's Programs			
C.	Supportive Services			
Attachment C1	Child Care Development			
Attachment C2	Child Care Funding			
Attachment C4	Child Care Management			
Attachment C5	Child Care Experience			
Attachment C6	Child Care Need			
Attachment C7	Child Care Staffing			
Attachment C8	Congregate Child Care			
Attachment C9	Other Support Services			

D. Job Training

Attachment D1	Jobs Program
Attachment D2	Jobs Providers
Attachment D3	Jobs Coordinator
Attachment D4	Project Jobs

E. Project Cash Flow Analysis

Attachment E2	Operating Expenses
Attachment E3	Child Care Operator's Expenses
Attachment E4e	Operating Subsidies

F. Development Budget

No Attachments

G. Project Financing

Attachment G1	Sources & Uses
Attachment G2a	Loans
Attachment G2b	Grants/Donated Land
Attachment G2c	Contributions
Attachment G2d	Syndication Proceeds

H. Site Information

Attachment H3	Site Control
Attachment H4	Preliminary Title Report
Attachment H5	Site Appraisal (New)
Attachment H6	Building Appraisal (Rehab)
Attachment H8	Vicinity Map
Attachment H11	Toxics Survey
Attachment H12	Utilities
Attachment H13	Soils Report
Attachment H14	Off-site Improvements

I. Local Government Approvals

Attachment I1 Zoning

Attachment I2 Conditional Use Permit

Attachment I3 Parcel Map

Attachment I4 Article XXXIV

Attachment I6 Local Government Letter

J. Relocation

Attachment J1a Occupancy & Relocation

Attachment J1b Tenant Notice

Attachment J1c Relocation Plan

Attachment J2a Description of Condition

Attachment J2b Relocation Benefits

K. Design and Construction

Attachment K2 Foreclosure

Attachment K9a Existing Conditions

Attachment K9b Inspection Reports

Attachment K9c Proposed Rehabilitation

Attachment K9d Rehab Estimates

Attachment K9e Seismic Report

Attachment K9f Resume

Attachment K10a Materials Description

Attachment K10b New Construction Estimates

Attachment K10c Schematic Drawings

L. Project Timeline

No Attachments

M. Local Need and Local Assistance

Attachment M1a Length of Wait for Units

Attachment M1b Rents and Vacancy Rates

Attachment M1c High Rental Comparison Costs

Attachment M2 Financial Commitment Assist.

Attachment M3 Housing Element Letter

SECTION A: PROJECT SUMMARY

1. Check all that apply:

Community housing	Congregate housing	
New construction	Acquisition	Conversion
General rehabilitation	Seismic rehabilitation	Reconstruction
Multi-family units	Single family unit(s)	Includes commercial space

2. Proposed FHDP loan amount: $

3. Proposed term of loan:

   a. Rehabilitation only: [ ] 20 years [ ] other:
   b. Acquisition/refinancing & rehabilitation: [ ] 30 years [ ] other:
   c. New construction: [ ] 40 years [ ] other:

4. Proposed term of program regulatory agreement:

   How many years in addition to the minimum required by Section 8115(b) of the regulations are you committing to maintain rent and occupancy restrictions similar to program restrictions? Note, this answer affects your rating score. Refer to regulation subsection 8132(c)(1)(B).

5. Total units:
   Total assisted units:
   Percentage of units that are assisted (at least 30% of total project units): %

6. Total very low-income assisted units:
   Percentage of assisted units that are very low-income (at least two thirds of assisted units): %

7. Total elderly units:
   Percentage of community housing units that are elderly (20% - 30%): %
   Percentage of congregate housing units (households) that are elderly (<50%): %

8. Specify any proposed limits on occupancy, such as a specific type of tenant population, beyond those required by FHDP.

9. If the project includes commercial space, describe:

10. Provide the names of the state legislators for the site location:

    Assembly:

    Senate:

SECTION B: APPLICANT

1. The applicant is a (check one):

[ ] public agency [ ] cooperative [ ] limited equity housing cooperative
[ ] nonprofit corporation [ ] joint venture
[ ] limited partnership with a nonprofit corporation as its managing general partner

a. If applicant is a limited partnership with a nonprofit corporation as its managing general partner or if applicant is a joint venture, list all general partners and attach agreement.

b. Unless applicant is a public agency, attach either (1) audited financial statements or (2) unaudited financial statements and tax returns for the past two years. If applicant is a limited partnership, include the requested information for the nonprofit managing general partner. If applicant is a joint venture, include the requested information for each partner.

c. Attach a resolution authorizing this application. (See the attached SAMPLE RESOLUTION.)

2. Is any syndication or transfer of ownership to another entity planned prior to occupancy? Yes No If yes, describe below. Provide the name of the new ownership entity, if known. If it is a limited partnership, list the general partners and the entities with which they are affiliated.

3. Attach a list of the applicant's staff assigned to the development phase of this project, providing their name, job title, job description, resume, and percentage of time assigned to this project. If applicant is a nonprofit corporation, attach a list of the board of directors and include a description of their related experience.

4. Attach a list of the key members of the project development team, including the architect, and contractor, if selected. For each, indicate what their contract or employment status is, and attach a resume or qualifications statement for each. Attach actual or proposed consultant contracts which clearly indicate the scope of work to be performed.

5. Property management will be performed by:

The applicant or an entity affiliated with the applicant.
A currently identified management firm, under contract to the applicant.
A currently unidentified management firm, under contract to the applicant.

If the applicant plans to manage the project or contract with a currently identified management firm, attach a list of projects currently under management. Use the following format:

Development Name:
Site Address:
Number of units: subsidized: market: total:
Subsidy program:

6. Development Experience: Attach a description of rental housing projects similar to the proposed development that the applicant or project manager has developed using the following format for each project. The "project manager" may be a staff person or consultant. They must have clear responsibility for day-to-day project development activities for the proposed project throughout the development period (from proposal to construction completion). Applicant or Project Manager roles typically should be one or more of the following: developer, development consultant, or staff for the prior experience indicated. If claiming experience in staff role, indicate specific responsibilities and job title.

Applicant/Project manager name: Applicant/Project manager name: Development name:

Number of units: subsidized: market: total:
Subsidy program:
Major construction lender: major permanent lender:
Construction completion date: / /
New construction: or rehabilitation: building type:

7. Ownership Experience: Attach a description of rental housing project similar to the proposed development which the applicant or applicant's staff has actively owned. "Actively owned" for applicants means serving as the sole owner or managing general partner of the ownership entity. For applicants' staff, "actively owned" means (1) serving as staff responsible for ownership duties (including oversight of property management) in an organization that actually held title or (2) serving as the sole owner or managing general partner of the ownership entity.

Applicant/Applicant staff: Role:

Development name:
Number of units: subsidized: market: total:
Subsidy program:
Major construction lender: major permanent lender:
Construction completion date: / /
New construction: or rehabilitation: building type:

8. In an attachment, briefly describe each program/project that the applicant is currently implementing.

9. List below any program or financial assistance that the applicant has received from HCD.

Program	Contract #	Amount	Date	HCD Contact

SECTION C: SUPPORTIVE SERVICES

1. Attach a resume describing the relevant experience of the members of the project development team that will be responsible for assuring that the on-site child care center is developed in accordance with all applicable local, state, and government requirements.

2. If FHDP funds are being requested to pay for costs in excess of 50% of the total costs associated with developing the child care center, attach documentation that the applicant made a reasonable attempt to obtain other funding for the construction of the child care center. Such documentation should include evidence that the applicant made application to and received responses from at least three funding sources other than the department.

3. The on-site child care center will be operated by (check one):

   the sponsor
   a separate entity contracting with the sponsor to manage the center
   a separate entity leasing the center

4. If the sponsor plans to operate the center by having it managed by or leased to a separate entity, attach the following:

   a. a description of the legal status and governing structure of the operator;
   b. a description of the role and responsibility of the sponsor, leaseholder or management agent. Specifically address the following areas of responsibility: center start-up; financial management, including securing subsidies; personnel; program development;

5. Attach a resume(s) or other information describing the experience of the organization and individual proposed to be responsible for the operation of the child care center. Include details on their experience in operating subsidized child care programs.

6. Attach information on the need in your community for infant, preschool, and school-age child care services. Provide information on market rates in your community for these services. (Note: the local Child Care Resource and Referral Agency will have this information.)

7. Attach a description of the staffing plan of the child care center. (Staffing ratios should correspond to the number and type of child care spaces contained in Section E.1.a.) Attach proposed job descriptions, and actual resumes, if available.

8. For congregate housing developments, provide an explanation of why it is not feasible to develop an on-site child care center as part of your project. For developments that are not providing a child care center, attach a detailed description of the alternative plan to assist each household which requires child care.

9. Attach a detailed description of the supportive services, other than child care, which will be provided to the residents. Include a description of the following:

   a. Explain who will provide the services, including a description of their previous experience at operating similar supportive services;
   b. Explain how the services will be paid for;
   c. Estimate the value of the services on an annual basis.

SECTION D: JOB TRAINING AND PLACEMENT PROGRAM

1. Attach a detailed description of how your development's job training and placement program will work. Include in your description the following:

   a. an assessment of the employment barriers of prospective FHDP households;
   b. the goals of your program;
   c. the components of your program, which at a minimum should include the following (described in Section 8128 of the FHDP regulations):

      i. individual vocational assessment;
      ii. remedial education and employment skills development;
      iii. job interview skills development;
      iv. job placement, including a description of the major employment opportunities in the area that could be available to residents.

   d. implementation of your program. Include how these services will be delivered to FHDP households, including marketing, referrals, and follow-up.

2. Describe who will be responsible for each component of your program. For each component include the following:

   a. history and experience of program operators (i.e. brochures, annual reports, etc.);
   b. letter of interest from program operators;
   c. estimated value of services to be provided to FHDP households on an annual basis (i.e., JTPA training and related benefits).

3. If your program will employ a project-based coordinator, explain job duties and how the position will be funded. (Funding for position should be reflected in Section E.)

4. Attach a description of all employment opportunities in the management and operation of the rental housing development (including the child care center and the job training program) that will be available to FHDP households. Include the following descriptions:

   a. type of jobs available;
   b. how residents will be trained;
   c. who will provide training.

SECTION E: PROJECT CASH FLOW ANALYSIS

1. Monthly Operating Income

a. Child Care Spaces In The Child Care Center:

Affordability	Type of Child	Monthly Fee	# of Children	Total Monthly Fee
Very Low-Income *	Infant			
	Preschool			
	School Age			
	VLI Total			
Lower-Income *	Infant			
	Preschool			
	School Age			
	LI Total			
Market Spaces	Infant			
	Preschool			
	School Age			
	MS Total			
Total				

* To calculate the monthly fee for very low-income and lower-income spaces, use the Family Fee Schedule and assume the following:

Low-income households at 60% of area median income
Very low-income households at 35% of area median income
Incomes below the minimum income listed on the Family Fee Schedule pay nothing.

b. Assisted Units In A Community Housing Development:

Assisted Units	# of Bedrooms	Square Feet	Gross Mon. Rent	Utility Allowance	Net Monthly Rent	# of Units	Total
Very Low-Income	SRO		$	$	$		$
	Studio		$	$	$		$
	1 Bdrm		$	$	$		$
	2 Bdrm		$	$	$		$
	3 Bdrm		$	$	$		$
	4 Bdrm		$	$	$		$
	VLI Total						$
Lower Income	SRO		$	$	$		$
	Studio		$	$	$		$
	1 Bdrm		$	$	$		$
	2 Bdrm		$	$	$		$
	3 Bdrm		$	$	$		$
	4 Bdrm		$	$	$		$
	LI Total						
Assisted Unit Total							$

c. Nonassisted Units In A Community Housing Development:

Nonassisted Units	# of Bedrooms	Square Feet	Gross Mon. Rent	Utility Allowance	Net Monthly Rent	# of Units	Total
Very Low-Income *	SRO		$	$	$		$
	Studio		$	$	$		$
	1 Bdrm		$	$	$		$
	2 Bdrm		$	$	$		$
	3 Bdrm		$	$	$		$
	4 Bdrm		$	$	$		$
	VLI Total						$
Lower Income **	SRO		$	$	$		$
	Studio		$	$	$		$
	1 Bdrm		$	$	$		$
	2 Bdrm		$	$	$		$
	3 Bdrm		$	$	$		$
	4 Bdrm		$	$	$		$
	LI Total						$
Market-Rate	SRO		$		$		$
	Studio		$		$		$
	1 Bdrm		$		$		$
	2 Bdrm		$		$		$
	3 Bdrm		$		$		$
	4 Bdrm		$		$		$
	MR Total						$
Nonassisted Unit Total							$

* Very low-income nonassisted units are units that have long term rent and occupancy restrictions that equal or exceed those required by the federal tax-credit program. Allowable rents cannot exceed 30% of 50% of the area median income, less a reasonable utility allowance. The maximum allowable income for a household occupying a unit is also 50% of the area median income.

** Lower income nonassisted units are units that have long term rent and occupancy restrictions that equal or exceed those required by the federal tax-credit program. Allowable rents cannot exceed 30% of 60% of the area median income, less a reasonable utility allowance. The maximum allowable income for a household occupying a unit is also 60% of the area median income.

d. Congregate Housing Developments:

Family Income Level	Family Size	Gross Mon. Rent	Utility Allowance	Net Monthly Rent	# of Families	Total
Very Low-Income	1	$	$	$		$
	2	$	$	$		$
	3	$	$	$		$
	4	$	$	$		$
	5	$	$	$		$
	6	$	$	$		$
	VLI Total					$
Lower Income	1	$	$	$		$
	2	$	$	$		$
	3	$	$	$		$
	4	$	$	$		$
	5	$	$	$		$
	6	$	$	$		$
	LI Total					$
Nonassisted	1	$		$		$
	2	$		$		$
	3	$		$		$
	4	$		$		$
	5	$		$		$
	6	$		$		$
	NA Total					$
Total						$

e. Commercial Space:

Space Designation	Square Feet	Monthly Rent	Monthly Surcharge	Total Monthly Income

2. Annual Operating Expenses

Provide estimates for the first full year following initial occupancy. On an attached sheet, describe the basis for the estimate for each line item. Except for the on-site child care center, show expenses for all supportive services and for the job training and placement program in the assisted and nonassisted unit columns. For the on-site child care center, show only those expenses in the child care column that the project sponsors pays.

	Child Care	Assisted	Nonassisted	Commercial	Total
MANAGEMENT a. Sponsor Overhead					
b. Contract Management Fee					
ADMINISTRATION a. Leases					
b. Marketing/Advertising					
c. Audit					
d. Legal					
e. Transportation (Vehicle Maintenance)					
f. Telephone					
g. Business Licenses					
h. Misc. Administrative Expenses					
i. TOTAL ADMINISTRATION					
SPONSOR SALARIES AND BENEFITS (include rent discounts) a. On-Site or Off-Site Manager					
b. Assistant Manager					
c. Grounds & Maintenance Personnel					
d. Janitorial Personnel					
e. Job Training/Employment Personnel					
f. Child Care Center Personnel					
g. Other Supportive Services Personnel					
h. Other (Specify)					
i. TOTAL SALARIES AND BENEFITS					
MAINTENANCE a. Supplies					
b. Elevator Maintenance					
c. Pest Control					
d. Grounds Contract					
e. Interior Painting & Decorating					
f. Furniture, Fixtures & Equipment (indoor/outdoor)					
g. Other					
h. TOTAL MAINTENANCE					

	Child Care	Assisted	Nonassisted	Commercial	Total
UTILITIES NOT PAID BY TENANTS a. Trash Removal					
b. Electricity					
c. Water and Sewer					
d. Gas					
e. TOTAL UTILITIES					
INSURANCE a. Property & Liability Insurance					
b. Bonding					
c. Other (Specify)					
d. TOTAL INSURANCE					
TAXES a. Real Estate Taxes/PILOTS					
b. TOTAL TAXES					
OTHER a. Tenant Mgmt./Training & Education					
b. Food					
c. Medical Expenses (Including First Aid Supplies)					
d. Transportation of Residents/Children					
e. Job Training & Employment Program					
f. Books and Supplies					
g. Other (Specify)					
h. Other (Specify)					
i. TOTAL OTHER:					
TOTAL OPERATING EXPENSES					

3. Child Care Center Operator's Income and Expenses

Provide estimates on this form for the child care center operator's income and expenses for the first full year of operation, only if the project sponsor will contract with a separate entity to operate the on-site child care center. On an attached sheet, describe the basis for the estimate for each line item.

I. INCOME	BUDGET	ACTUAL
1. Parent Fees		
2. Child Care Food/National Lunch Program		
3. Reimbursement for GAIN children		
4. Reimbursement for WIN children		
5. Reimbursement from State Dept. of Education		
6. Reimbursement from JTPA		
7. Lease Payments		
8. Other (Specify)		
a.		
b.		
c.		
d.		
9. TOTAL INCOME		
II. EXPENSES		
10. Care and Services		
a. Food		
b. Housekeeping - Cleaning supplies..... Laundry and dry cleaning.....		
c. Equipment for programs and recreational activities		
d. Books, newspapers, magazines, etc.		
e. Medical expenses (including first-aid supplies)		
f. Transportation for clients		
11. General Administration		
a. Salaries (professional, clerical, housekeeping, etc.)		
b. Fringe benefits (Unemployment Insurance, Worker's Comp., OASDI, retirement fund)		
c. Transportation (Gen.) Auto maintenance, insurance		
d. Telephone		
e. Office supplies, postage, etc.		
f. Advertising, publicity, printing, etc.		
g. Business licenses, professional memberships, conference cost, etc.		
h. Bonding and public liability insurance		
i. Fire insurance		
12. Physical Plant		
a. Rent, lease, or mortgage payments		
b. Taxes (on personal and real property)		
c. Utilities: Gas..... Electricity..... Water.....		
d. Rubbish and garbage collection		
e. Maintenance and repairs: For equipment..... For buildings and grounds.....		
f. Furniture and equipment		
13. TOTAL EXPENSES		
III. GROSS PROFIT (OR LOSS) (Line 9 minus Line 13)		

4. First Year Cash Flow Analysis

Provide information on the cash flow of the rental housing development for the first full year of operation. Information in the child care column should reflect income and expenses to the project sponsor only.

a. Operating expenses: $ per unit per year

b. Replacement reserve deposit: % of unit construction cost (not less than 0.6%)

c. Operating reserve deposit: % of annual operating expenses (approx. 3%)

d. The maximum possible annual sponsor distribution from assisted unit cash flow is 8% of the sponsor's actual investment in the assisted unit and child care center development cost. The maximum possible annual sponsor distribution from assisted unit and child care center cash flow in this project is $, based on an actual investment in the assisted units and child care center of $

e. In an attachment, describe all rental subsidies, child care subsidies, and other support services subsidies that are part of the effective gross income in the first year cash flow analysis below. Give details on the source of the funds, the number of years that the funds are available for, the status of the funding commitment, limitations on use of the funds and any repayment terms.

	Child Care	Assisted	Nonassisted	Commercial	Total
1. Potential gross income	$	$	$	$	$
2. Misc. income (laundry, phone, vol. services charges, etc.)	$	$	$	$	$
3. Total potential gross income	$	$	$	$	$
4. Vacancy & collection loss	($)	($)	($)	($)	($)
5. Rental subsidies	$	$	$		$
6. Child care subsidies	$	$	$		$
7. Other support services subsidies	$	$	$		$
8. Annual effective gross income	$	$	$	$	$
9. Operating expenses (from Section E.2.):	($)	($)	($)	($)	($)
10. Net operating income:	$	$	$	$	$
11. Replacement reserve deposit:	($)	($)	($)	($)	($)
12. Operating reserve deposit:	($)	($)	($)	($)	($)
13. Transfer of Income From Acct.*	($)	($)	($)	($)	($)
14. Transfer of Income to Acct.*					
15. Debt service (other loans):	($)	($)	($)	($)	($)
16. Sponsor distributions:	($)	($)	($)	($)	($)
17. FHDP interest payments:	($)	($)			($)
18. FHDP interest deferred:	($)	($)			$

* List income from nonassisted units or commercial space used to subsidize assisted units or child care center; or income from assisted units used to subsidize child care center. The totals of lines 13 and 14 should be zero.

SECTION F: DEVELOPMENT BUDGET

Submit your development budget on the following form. Do not provide your own spreadsheet as a substitute. Show costs of syndication and developer's fees from syndication proceeds under Section G.2.d. of this application. Do not include these costs on this form. For projects with nonassisted units and/or commercial space, prorate common area costs that cannot be directly attributed to each use based on the gross floor area of each use as a percentage of the total space.

	Child Care	Assisted	Nonassisted	Commercial	Total
1. SITE/BUILDING ACQUISITION COST					
2. SITE/BUILDING VALUE BEYOND COST					
3. OFF-SITE IMPROVEMENTS					
4. SITE IMPROVEMENTS & LANDSCAPING					
5. UNIT CONSTRUCTION (including contingency)					
6. CONSTRUCTION FEES a. Local permits & fees					
b. Architecture & Engineering fees					
c. Survey					
d. Bond premium					
e. Phase I Environmental Study					
f. Other					
CONSTRUCTION FEES SUBTOTAL					
7. GENERAL DEVELOPMENT COSTS a. Construction lender financing fee %					
b. Construction loan interest months @ % on $					
c. Real estate taxes					
d. Risk/liability insurance					
e. Permanent lender financing fees %					
f. Appraisal fee					
g. Legal fees					
h. Consultant fees					
i. Title & escrow fees					
j. Tenant Relocation					
k. Furnishings/Equipment					
l. Rent-up: marketing					
m. Rent-up: vacancy					
n. Initial Operating & Replacement Reserve					
o. Post-construction Audit					
p. Other					
q. Other					
GENERAL DEVELOPMENT COSTS SUBTOTAL					
8. ADMINISTRATIVE EXPENSES					
9. TOTAL DEVELOPMENT COST					

SECTION G: PROJECT FINANCING

1. Sources and Uses

Provide spreadsheets with a breakdown of development costs listed in the left hand column and the sources of funds spread across the top row, in as many columns as necessary. Prepare separate spreadsheets for the construction period and the period when permanent financing is in place.

In the body of the spreadsheet, show which line items each source will be used to pay. Use FHDP Development Budget categories, shown in the following sample, to aggregate costs.

Proposed Use of Funds	Use Total	FHDP Loan Request	Source 2	Source 3	Source 4	Source 5	Source 6	LINE TOTALS
Site Acquisition								
Site Value Beyond Cost								
Off-site Improvements								
Site Improvements & Landscaping								
Unit Construction								
General Development Costs								
Administrative Expenses								
Total Development Costs								

FINANCIAL SUMMARY							
Lien Position							
Loan Type							
Term							
Annual Rate							

2. Sources Descriptions and Documentation

In an attachment, provide the information requested below for all loans (including FHDP), all grants and all owner contributions which will be used to pay the project development cost. Include any construction or interim loans. Attach commitment letters or letters of intent that have been received, or executed promissory note and deed of trust if loan is in place. To receive credit for site/building value, beyond site/building acquisition costs, (1) list this extra value under questions b.2. or b.3. below and on the development budget on the previous page, and (2) submit an appraisal of the site/building in response to questions H5 and H6. For lien position (line a7), indicate by the following coding: 1 = first; 2 = second; J = Junior; E = Equity; U = Unsecured. The FHDP loan may be subordinate to institutional lenders, but must be senior to other government liens.

a. Loans

1. Lender: Contact: Phone #:( )
2. Loan terms: $, at % (fixed rate), amortized over years, due in years. ARM loan terms:
3. Loan Type:amortized deferred/residual receipts: bridge: residual receipts:
4. Amount of balloon payment, if applicable: $
5. Debt service: P & I? or interest only? payment = $ /month, $ /year.
6. Status: proposed: committed: funded:
7. Lien Position:

b. Grants (Including Donated Land, Fee Waivers, etc.)

1. Donor: Contact: Phone: ( )
2. Amount: $ Name of program, terms and limitations
3. Status: Proposed: Committed: Owned: Funded:

c. Owner/Managing General Partner Contributions

1. Amount:
2. Sources:

d. Limited Partner Contributions (Syndication Proceeds)

1. Gross Syndication Proceeds:
2. Costs of Syndication:
3. Net Syndication Proceeds:
4. Developer's Fee (up to 25% of net):
5. Contribution to Project Costs:
6. Attach a description of how the estimate of gross syndication proceeds was arrived at, the timetable for gross syndication pay-ins and a breakdown of the sponsor's costs of syndication.

SECTION H: SITE INFORMATION

1. Site location by numbered street address, if determined, or by intersection of cross streets:

2. Size of site: acres # of parcels:

3. The applicant has legally enforceable site control, evidenced by one of the following:

   fee title purchase contract

   option to purchase leasehold interest

   disposition & development agreement

   Attach complete evidence of site control (all documents comprising the agreement, with signatures by all parties). If the project is composed of more than one parcel, or there is more than one document provided to evidence site control, attach a narrative explanation describing clearly each parcel and each document.

4. Provide a current (no more than six months old) preliminary title report. If the applicant is the current owner, the report should show them as such.

5. For a new construction project, complete the attached LAND SALES COMPARABLES FORM or provide an appraisal of the project site done within the last 12 months.

6. For a rehabilitation project, complete the attached BUILDING SALES COMPARABLES FORM or provide an appraisal of the property done within the last 12 months.

7. Approximate distance to:

   Schools Park

   Food market Pharmacy

   Hospital Fire department

   Public transportation (specify type)

8. On a vicinity map, identify the location of the project, the location of the comparable land sales requested in 5 & 6 above and the items listed in 7 above.

9. Is the property in a flood plain? Yes No If yes, explain design features that will mitigate this potential hazard.

10. Describe any adverse site features such as location near an airport, freeway, railroad tracks, industrial facility, etc.

11. Are there any known toxic or hazardous waste problems involving the site? Yes No If yes, attach a description of the problem. Attach a toxics survey if one is available.

12. For new construction projects, if the site is not located in an already developed subdivision, are power, water, sewer and telephone services now available for this site? Yes No If yes, attach all utility "will serve" letters that are obtainable. If no, explain how and when you will obtain those services not available.

13. For new construction projects, are there any unusual soils conditions? If yes, describe the conditions and attach a soils report.

14. Are off-site improvements needed? Yes No If yes, attach a description of these improvements and the basis for their estimated cost, as shown in the Development Budget above.

SECTION I: LOCAL GOVERNMENT APPROVALS

1. Does the project as proposed, including the child care center, necessitate a zoning change?

Yes, the property is currently zoned and is expected to receive the necessary zoning by

No, the property already has the necessary zoning, which is . Attach a letter from the local planning department or other evidence of the zoning.

2. Does the project as proposed in this application, including the child care center, need a conditional use permit? Yes No If yes, attach evidence of approval, or describe status of application.

3. For a new construction project, is subdivision approval required? Yes No If yes, does project have approval? Yes No If yes, attach approved tentative map, final map or parcel map. If subdivision approval is required but has not yet been obtained, what is the current status?

4. Does the project have Article XXXIV approval? Yes No Exempt If yes, attach evidence from the local government agency. If no, explain current status. If exempt, explain why.

5. Identify known opposition or obstacles to this project's receiving any of its required local government approvals.

6. Attach a copy of a letter which has been sent from the applicant to the head of the local legislative body of general jurisdiction (city council, county board, etc.) notifying and describing the location, size, and type of proposed project, and proposed tenant population. Indicate the date that the letter was mailed.

SECTION J: RELOCATION

1. For projects involving rehabilitation, is the residential portion of the structure currently vacant? Yes No Is the nonresidential portion of the structure currently vacant? Yes No

If yes to either of the above:

When did it become vacant?
What was its last use?

a. Complete the attached OCCUPANCY & RELOCATION FORM.

b. Attach one copy of the tenant notice provided to the occupants of each residential unit, as required in Section 8125(b)(3) and (6) of the FHDP regulations.

c. Attach a general description of the applicant's plan for providing relocation benefits or avoiding displacement, indicating whether tenants will need to move from the building, whether any relocation units have been identified, who will be supervising and conducting the relocation effort, a budget, and related information. Identify all planned measures that will minimize the cost and extent of relocation.

2. For new construction projects, does the project involve the demolition of existing residential rental units? Yes No
How many residential rental units are to be demolished?

a. If the number of units to be demolished is less than half the number of units to be built, attach a description of the condition of the units to be demolished and the reasons why they are economically infeasible to rehabilitate.

b. Attach a description of the applicant's plan for providing relocation benefits, whether any relocation units have been identified, who will be supervising and conducting the relocation effort, and related information.

SECTION K: DESIGN & CONSTRUCTION

1. Check all of the following amenities that are supplied to the tenants with cost included in the rent:

linen service	furniture
washer/dryer in unit	washer/dryer in common area
tot lots	playgrounds
barbecue area	basketball/volleyball courts
tennis courts	parking: spaces/unit
swimming pool	other (specify)

2. For new construction projects, has unit construction started on the project? Yes No If yes, has unit construction in progress been halted, and is the project property currently foreclosed upon, in foreclosure, deeded to a lender in lieu of foreclosure, or at substantial risk of foreclosure? Yes No If yes, attach a description of the status of all actions to date.

3. Number of structures in the project:
Number of stories per structure:
Elevator: yes no

4. If the project includes indoor common space, describe.

5. For rehabilitation, what is the age of existing structure(s) to be rehabilitated?: years.

6. Type of construction:

( ) wood frame
( ) reinforced brick or other reinforced masonry
( ) unreinforced brick or other unreinforced masonry (existing structures to be rehabilitated)
( ) other (specify)

7. For rehabilitation projects, list the number and type of residential units before and after rehabilitation. If more than one site, show totals below and attach for each site separately.

Community Housing Developments

Unit Type	# Before Rehabilitation			# After Rehabilitation			
	Lower-Income Units	Other Units	Total Units	Assisted Lower-Income	Nonassisted Lower-Income	Mkt-rate Units	Total Units
Studio							
1 bedroom							
2 bedrooms							
3 bedrooms							
Other (specify)							
TOTAL							

Congregate Housing Developments

Unit Description	# Before Rehabilitation	# After Rehabilitation
Bedrooms occupied by lower-income tenants		
Bedrooms occupied by other tenants		
Bathrooms		

8. For all projects, calculate the square footages of space attributed to each use. Prorate common area costs that cannot be directly attributed to each use based on the leasable floor area of each use as a percentage of the total leasable space. See Section E.1.c. for a description of nonassisted low-income (very low-income + lower income) residential space.

Child care center space: square feet
Indoor common space apportioned to the above: square feet
Total space apportioned to the child care center: square feet (% of total space)

Leasable assisted residential space: square feet
Indoor common space apportioned to the above: square feet
Total assisted residential space: square feet (% of total space)

Leasable nonassisted low-income residential space: square feet
Indoor common space apportioned to the above: square feet
Total nonassisted low-income residential space: square feet (% of total space)

Leasable nonassisted market-rate residential space: square feet
Indoor common space apportioned to the above: square feet
Total nonassisted market-rate residential space: square feet (% of total space)

Leasable commercial space: square feet
Indoor common space apportioned to the above: square feet
Total commercial space: square feet (% of total space)

Total leasable + child care center space: square feet
Total indoor common space: square feet
Total space: square feet (100%)

9. For projects involving rehabilitation, provide the following as an attachment:

   a. a description of the existing condition of each of the following components of your building (structural, plumbing, heating, roofing, doors, walls, electrical, foundation and mechanical), including a description of the need in each unit;

   b. all inspection reports received in the last 12 months from local housing and building code officials, pest control services, roofing inspectors, etc.;

   c. a description, by component, of the proposed rehabilitation work, and all work directly related to the rehabilitation, including schematic or other plans related to the work if available;

   d. a line item cost estimate, consistent with c. above, prorating costs that cannot be directly associated with one use (child care center, assisted units, nonassisted units, commercial space) or another based on the gross floor area occupied by each use;

   e. if seismic reinforcement is planned, a separate line item estimate for all work directly related to the seismic reinforcement, following the format described in (d) above, including costs for the seismic work itself, and for all demolition, wall repair, and similar work directly related to the seismic work; and

   f. a resume describing the experience of the person(s) responsible for preparing above items a., c., d., and e.

10. For new construction projects, provide the following as an attachment:

   a. a description of materials for all major components to be used in the construction of the project;

   b. a line item cost estimate, consistent with a. above, prorating costs that cannot be directly associated with one use (child care center, assisted units, nonassisted units, commercial space) or another based on the gross floor area occupied by each use; list the name and phone number of the person who prepared this estimate and describe the method used to determine the figures;

   c. schematic drawings of the site plan, floor plans and building elevations.

SECTION L: PROJECT TIMELINE

1. Site/building acquisition will occur by

2. Local planning approvals will be secured by

3. Construction/interim financing will be obtained by

4. Permanent financing will be obtained by

5. Off-site improvements will be completed by

6. Unit construction/rehabilitation will begin by
   (if phased, indicate timing)

7. Construction/rehabilitation will be completed by

8. Initial occupancy will occur by

SECTION M: LOCAL NEED AND LOCAL ASSISTANCE

1. The evaluation of local need shall be based upon information gathered by the department or upon data submitted by the applicant and determined to be acceptable by the department. All applicants should answer question a, but only answer questions b. and c. if you believe that there is a significant error in the department's determination (see need indicators chart included in the application package) of the area vacancy rate, typical local market-rate rents as a percentage of the area median income, and rental housing development costs in comparison to costs in other areas of the state. Attach appropriate documentation for each of your answers, clearly indicating the source, the methodology employed and clearly stating conclusions.

   a. Length of wait for units in comparable subsidized housing developments. Provide information on specific comparable projects, not on area-wide lists.

   b. Market-rate rents and vacancy rate for typical units in the area.

   c. High rental housing development costs, in comparison to costs in other areas of the state.

2. Check the applicable statement related to the local public agency's provision of assistance. Financial assistance is defined as assistance that is equal to at least five percent of the project development cost, excluding any costs of tax-credit syndication. Nonfinancial assistance includes forms of assistance such as the granting of density bonuses, the modification of development standards, and the fast tracking of local approvals, but does not include simply the provision of technical assistance, consultation or advice. Attach documentation supporting the checked statement.

   The project has received a commitment for financial or nonfinancial assistance from a local public agency.

   The project is eligible for financial or nonfinancial assistance under a local agency program in support of lower income housing, but has not received a commitment.

   None of the above apply.

3. If applicant is a local agency, attach a report regarding actions it is taking to implement its housing element, including policies or programs especially targeted towards provision of housing for lower income households. For all other applicants, attach a copy of a letter to the local public agency requesting a similar report.

CERTIFICATION

I certify that the above and attached information and statements are true, accurate and complete to the best of my knowledge.

(Signature of Authorized Officer/Owner) (Date)

(Name of Authorized Officer/Owner)

For

(Name of Applicant

ATTACHMENT B.1.c.

SAMPLE RESOLUTION - CORPORATE BORROWER FAMILY HOUSING DEMONSTRATION PROGRAM

WHEREAS, The State of California Department of Housing and Community Development (the "Department") has issued a Notice of Funding Availability under its FAMILY HOUSING DEMONSTRATION PROGRAM (the "FHDP"); and

WHEREAS, (Corporate Borrower) (the "Borrower") is a (nonprofit/public benefit) corporation, duly organized under the laws of the State of (California), and authorized to do business in the State of California; and

WHEREAS, Borrower has heretofore either received, or been assigned, a conditional commitment of funds under the above-described Notice of Funding Availability;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the (Name of Governing Body) of (Corporate Borrower) , as follows:

1. That Borrower is hereby authorized to borrow funds which are the subject of the Department's conditional commitment pursuant to the above-described Notice of Funding Availability in an amount not to exceed $ (the "FHPD Loan"); and

2. That in connection with the FHDP Loan, Borrower is authorized to enter into a State of California Standard Agreement and any and all other documents required to evidence the FHDP Loan, Borrower's obligations related thereto, and the Department's security therefore; including, but not limited to, a promissory note, a deed of trust and security agreement, a regulatory agreement, a development agreement and certain other documents required by the Department as security for, evidence of or pertaining to the FHDP Loan, and all amendments thereto (collectively, the "FHDP Loan Documents"); and

3. That (Name and Title of Corporate Officer) is hereby authorized to execute the FHDP Loan Documents on behalf of Borrower.

This resolution shall take effect immediately.

DATE:

[Name and Title of Person Signing]

Passed and adopted this day of , 199 , by the following vote:

AYES NAYS
ABSTAIN ABSENT

CERTIFICATE OF THE SECRETARY

The undersigned, Secretary of (Corporate Borrower) does hereby attest and certify that the (foregoing/attached) Resolution is a true and correct copy of a resolution duly adopted at a meeting of said corporation which was duly convened and held on the date stated thereon, and that said Resolution has not been amended, modified, repealed or rescinded since its date of adoption and is fully in force and effect as of the date hereof.

DATE:

, Secretary

SAMPLE LOAN AUTHORIZATION - PARTNERSHIP BORROWER FAMILY HOUSING DEMONSTRATION PROGRAM

The undersigned hereby certif(y/ies) that (he/she/it/they) (is/are) the (sole general partner(s)/managing general partner) of (Borrower Partnership) , a (type of partnership) (the Borrower), and as such, make(s) the following certifications and representations to the State of California Department of Housing and Community Development (the "Department"):

1. That Borrower has heretofore either received, or been assigned, a conditional commitment of funds under a Notice of Funding Availability issued by the Department under its FAMILY HOUSING DEMONSTRATION PROGRAM (the "FHDP").

2. That borrower is duly formed as a (type of partnership) in the State of , is authorized to do business in the State of California, and has the power to borrow funds which are the subject of the Department's conditional commitment, in an amount not to exceed $ (the "FHDP Loan");

3. That, in connection with the FHDP Loan, Borrower is authorized to enter into a State of California Standard Agreement and any and all other documents required to evidence the FHDP Loan, Borrower's obligations related thereto, and the Department's security therefor; including, but not limited to, a promissory note, a deed of trust and security agreement, a regulatory agreement, a development agreement and certain other documents required by the Department as security for, evidence of or pertaining to the FHDP Loan, and all amendments thereto (collectively, the "FHDP Loan Documents"); and

4. That (Name) , (a General/the Managing General) Partner of Borrower, is hereby authorized to execute the FHDP Loan Documents on behalf of Borrower.

DATED: DATED:

BY: BY:

SAMPLE RESOLUTION - CORPORATE GENERAL PARTNER FAMILY HOUSING DEMONSTRATION PROGRAM

WHEREAS, The State of California Department of Housing and Community Development (the "Department") has issued a Notice of Funding Availability under its Family Housing Demonstration Program (the "FHDP"); and

WHEREAS, (Borrower's Corporate General Partner) is a (nonprofit/public benefit) corporation, duly organized under the laws of the State of (California) , authorized to do business in the State of California, heretofore authorized by this (Name of Governing Body) to act as a General Partner of (Limited Partnership Borrower) (the "Borrower"); and

WHEREAS, the Borrower has heretofore either received, or been assigned, a conditional commitment of funds under the above-described Notice of Funding Availability:

NOW, THEREFORE, IT IS HEREBY RESOLVED by the (Name of Governing Body) of (Borrower's Corporate General Partner) (the "Corporation"), as follows:

1. That the Corporation is hereby authorized to act as a General Partner of the Borrower in connection with the Department's loan of funds to the Borrower pursuant to the above-described Notice of Funding Availability in an amount not to exceed $ (the "FHDP Loan"); and

2. That in connection with the Borrower's FHDP Loan, the Corporation is authorized to enter into, as a General Partner of the Borrower, a State of California Standard Agreement and any and all other documents required to evidence the FHDP Loan, the Borrower's obligations related thereto, and the Department's security therefor; including, but not limited to, a promissory note, a deed of trust and security agreement, a regulatory agreement, a development agreement and certain other documents required by the Department as security for, evidence of or pertaining to the FHDP Loan, and all amendments thereto (collectively, the "FHDP Loan Documents"); and

3. That (Name and Title of Corporate Officer) is hereby authorized to execute the FHDP Loan Documents on behalf of the Corporation as a General Partner of the Borrower.

This resolution shall take effect immediately.

DATE:

[Name and Title of Person Signing]

Passed and adopted this day of , 199 , by the following vote:

AYES NAYS

ABSTAIN ABSENT

CERTIFICATE OF THE SECRETARY

The undersigned, Secretary of (Borrower's Corporate General Partner) does hereby attest and certify that the (foregoing/attached) Resolution is a true and correct copy of a resolution duly adopted at a meeting of said corporation which was duly convened and held on the date stated thereon, and that said Resolution has not been amended, modified, repealed or rescinded since its date of adoption and is fully in force and effect as of the date hereof.

DATE:

, Secretary

ATTACHMENT H.5.

FAMILY HOUSING DEMONSTRATION PROGRAM

LAND SALES COMPARABLES FORM
(for new construction projects)

Instructions: Complete only if site appraisal is not available from the last 12 months. Show information for three recently sold parcels comparable to the proposed project site.

	1	2	3
Address			
Distance from Project Site			
Zoning			
Total Square Footage			
Date of Sale			
Sale Price			
Price Per Square Foot			
Access to Utility Services			
Unusual Site Conditions			
Other Remarks			

Source:

Completed by Title Date

FAMILY HOUSING DEMONSTRATION PROGRAM

BUILDING SALES COMPARABLES FORM
(for rehabilitation projects)

Instructions: Complete only if no appraisal done in the last 12 months is available. Show information for three recently sold properties comparable to the proposed project in its before-rehabilitation condition.

	1	2	3
Address			
Distance from Project			
Price			
Date of Sale			
Approximate Building Age			
Unit Make-up: Studios			
1-Br			
2-Br			
3-Br +			
Total			
Vacancy Rate			
Gross Building Area			
Rentable Nonresidential Area			
Price/Square Foot			
Price/Unit			
Condition of Property			
Other Remarks			

(c) An application shall be deemed complete when the department is able to determine from the information provided whether the project is eligible for rating and ranking pursuant to the requirements of section 8132.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50888, 50888.3, 50888.5, 50888.7, 50889, 50891.5 and 50893.9, Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8132. Project Selection.

(a) Projects shall not be eligible for rating and ranking unless the application demonstrates that all of the following conditions exist:

(1) The applicant is an eligible sponsor pursuant to section 8113;

(2) The project involves an eligible project pursuant to section 8112;

(3) All proposed uses of program funds are eligible pursuant to section 8114;

(4) The application is complete pursuant to section 8131;

(5) The project will maintain fiscal integrity consistent with meeting the requirements of the program.

(6) The project site is free from severe adverse environmental conditions that cannot be mitigated – such as the presence of toxic waste that is economically infeasible to remove – and is reasonably accessible to public transportation, shopping, medical services, recreation, schools, and employment in relation to the needs of the project tenants.

(b) Projects shall not be denied funding solely because projected operating income is insufficient to make payments on the program loan.

(c) Where the application meets the requirements of subdivision (a), the proposed project will be rated to determine its compliance with the following priority requirements. The application must receive a minimum of 60 percent of the total possible points in order to qualify for funding. Applications receiving 60 percent or more of the total possible points shall be ranked based on their point scores, with applications scoring higher receiving a higher ranking. Applications shall be eligible to receive commitments of available funds in a priority order based on their ranking consistent with the standards of subdivisions (e), (f) and (g) of section 8130. The maximum score for each of the following seven criteria is 15:

(1) The extent to which the project serves the greater number of eligible households with the lowest incomes for the greatest period of time as evidenced by the following:

(A) The sum of the number of very low–income units and the number of very low–income nonassisted units, divided by the total number of units.

(B) The proposed length of term of the regulatory agreement, in excess of the program's minimum requirement as described in section 8115(b).

(2) Need in the area of the proposed project for the type of housing provided by the proposed project. The department shall issue an evaluation of need for market areas within California based on the criteria listed below. The sponsor in its application may submit other or additional information and data to rebut or supplement the department's evaluation with respect to the need within the individual project's area. Where the department determines that the sponsor's data provides a more accurate evaluation of need, it shall base its rating on such data.

(A) Low vacancy rate for rental housing.

(B) Typical local market–rate rents that are a high percentage of the income limit for very low–income households. The income limit for very low–income households is provided in section 6932 pursuant to Health and Safety Code section 50105. For example, in Sacramento County the typical market–rate rent for a three–bedroom rental is $750., while the monthly income for a very low–income family of four is $1,562.50. Such a family will pay 48% of their income to rent such a dwelling unit. Since affordable rent is set at 25% of income pursuant to section 6922 of Title 25, 48% of income is high.

(C) Length of wait for units in comparable subsidized housing developments.

(D) High rental housing development costs, in comparison to costs in other areas of the state.

(3) The extent to which the proposed project complements the implementation of an existing housing program in the local agency in which the proposed project is located. "Local agency" means the same as defined in section 50077 of the Health and Safety Code. Points shall be allocated based upon the following criteria:

(A) The extent to which the local agency has an existing housing program, such as a housing element, in compliance with the requirements of Article 10.6, commencing with section 65580 of Chapter 3 Division 1 of Title 7 of the Government Code, or a similar plan or policy formally considered by the local city council or board of supervisors. A plan or policy shall ordinarily be deemed to be similar based upon the extent to which it addresses affordable housing issues such as the following: an assessment of need in the area and an inventory of resources and any constraints on those resources; a statement of the community's goals, objectives and policies relative to the maintenance, preservation, improvement and development of housing; a program which sets forth a schedule of actions which the local government has undertaken, is undertaking and intends to undertake to implement these goals; and a program for preserving existing assisted housing developments. Examples of actions which a local government may have taken, is taking or may intend to take in implementing the community's goals, objectives and policies include demonstrated performance in support of the development of affordable housing utilization of federal, state and local financing and subsidy programs; land use development controls; and regulatory provisions, concessions and incentives.

(B) The extent to which the local agency is providing, or could provide, financial or nonfinancial assistance to the applicant's project. Financial assistance is defined as assistance that is equal to at least five percent of the project's development cost, excluding any costs of syndication, or $250,000, whichever is less. Nonfinancial assistance includes forms of assistance such as the granting of density bonuses, the modification of development standards, and the fast tracking of local approvals, but does not include simply the provision of technical assistance, consultation or advice.

(4) The extent of sponsor participation or participation of other funding sources, as determined by the product of the program loan amount divided by the sum of the total development cost of all assisted units and lower–income nonassisted units in the project. Total development cost does not include any costs of syndication.

(5) The extent to which the proposed project maximizes the use of other private and public sources of funding and other services to assist in providing supportive services and job training and placement services as evidenced by the following:

(A) the sum of all operating subsidy funds for supportive services and job training and placement services and the estimated value of in–kind services, committed to the project for the project's first year of operation divided by the number of assisted units; and

(B) the feasibility of the plans for supportive services and job training and placement services considering the size, nature, and location of the proposed project.

(6) The capacity of the applicant, including its board, staff and any consultants to own, construct or rehabilitate, and manage the rental housing development, as evidenced by:

(A) the applicant's current financial, operational and organizational stability;

(B) the applicant's previous development and ownership experience with residential projects; and

(C) the applicant's previous experience at operating similar supportive services and job training and placement programs.

(7) The degree of the project's economic feasibility demonstrated by the readiness of the project to start construction, evidenced by the following:

(A) the status of local development approvals; and

(B) the status of all project financing commitments.

Maximum possible points 105

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50889.5 and 50891(a), Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

Article 4. Program Operations

§ 8133. Legal Documents.

(a) The department shall enter into a Standard Agreement with each sponsor which shall encumber monies from the Account in an amount sufficient to fund the approved loan amount. The Standard Agreement shall contain the following:

(1) a description of the approved project and the permitted uses of program funds;

(2) provisions governing the amount and terms of the loan;

(3) provisions regarding the regulatory restrictions to be applied to the project through the Regulatory Agreement;

(4) provisions governing the construction or rehabilitation work and, as applicable, the acquisition or refinancing of the project site, and the disbursement of loan proceeds;

(5) provisions governing the implementation of the job training and placement program pursuant to the requirements of section 8128 and as approved by the department;

(6) provisions governing the implementation of the supportive services requirements of section 8127 and as approved by the department during the initial application process;

(7) special conditions imposed as part of department approval of the project;

(8) requirements for the execution and, the recordation of the agreements and documents required under the program;

(9) the approved schedule of the project, including land or building acquisition, if any, commencement and completion of construction or rehabilitation work, and occupancy by eligible households;

(10) provisions relating to acquisition or refinancing agreements, bidding and awards to contractors;

(11) provisions regarding tenant relocation;

(12) bonding and insurance requirements consistent with the requirements of this subchapter;

(13) provisions related to a management plan pursuant to section 8137;

(14) terms and conditions required by federal or state law;

(15) requirements regarding the processing of loan proceeds and requests for funds, and payments thereof;

(16) remedies available to the department in the event of a violation, breach, or default of the Standard Agreement, including repayment of all costs of enforcement;

(17) other provisions necessary to ensure compliance with the requirements of this program.

(b) The department shall enter into a Development Agreement with each sponsor to govern the construction or rehabilitation work of the project and the acquisition or refinancing of the project site, if applicable. The Development Agreement shall be executed prior to the disbursement of funds to the sponsor. The Development Agreement shall contain the following:

(1) the approved schedule of the construction or rehabilitation of the project;

(2) provisions ensuring that the construction contract is consistent with section 8126 and other program requirements and that all financing agreements are consistent with program requirements;

(3) the approved budget for construction or rehabilitation work, land or building acquisition and other project costs, if applicable;

(4) provisions relating to the timing, amount, and terms of funds disbursement including any special conditions to funds disbursement imposed by the department;

(5) provisions relating to construction or rehabilitation specifications, and disbursement of funds to contractors or others;

(6) requirements for reporting to the department;

(7) terms and conditions for the inspection and monitoring of the project in order to verify compliance with the Standard Agreement and the Development Agreement;

(8) conditions constituting breach of the Development Agreement and remedies available to the parties thereto, including repayment of costs of enforcement;

(9) a requirement that the contractor comply with state prevailing wage law, as set forth in Labor Code section 1720 et seq., where program funds are provided as new construction financing; and

(10) other provisions necessary to ensure compliance with the requirements of this program.

(c) The department shall enter into a Regulatory Agreement with each sponsor for not less than the original term of the loan which shall be recorded against the project property prior to the disbursement of funds. The Regulatory Agreement shall include the following:

(1) a description of the rental housing development, including a designation of the number and type of assisted units pursuant to section 8120;

(2) standards for tenant selection pursuant to section 8121(a) and provisions regarding recertification of tenant income and the consequences of such recertification pursuant to sections 8121(f) and (g);

(3) provisions regulating the terms of the rental agreement pursuant to section 8121(d);

(4) provisions related to an annual budget approved by the department pursuant to section 8139;

(5) provisions related to a rent schedule, including initial rent levels for assisted units pursuant to section 8122(a) or (b), and nonassisted units;

(6) conditions and procedures for permitting rent increases pursuant to section 8122(g) and (h);

(7) provisions for limitations on distributions pursuant to section 8123;

(8) for community housing developments, provisions regulating the operation of the child care center pursuant to section 8127 (a)(1);

(9) provisions regarding the implementation of the job training and placement program pursuant to section 8128(a) and a job training program within the rental housing development pursuant to section 8128(c);

(10) for congregate housing developments, provisions regulating the implementation of supportive services pursuant to section 8127(b);

(11) for congregate housing developments, provisions requiring the execution of a resident management agreement as described in section 8137(c);

(12) provision requiring annual reports, inspections and audits pursuant to section 8138;

(13) provisions regarding the withdrawal of funds from project reserve accounts;

(14) assurances that sponsor will maintain the rental housing development in a safe and sanitary condition in compliance with state and local housing codes and the management plan pursuant to section 8137;

(15) acts or omissions constituting breach of the Regulatory Agreement, including, among others, a breach of the Development Agreement or failure to operate the housing development in accordance with the Regulatory Agreement, and remedies available to the parties thereto;

(16) provisions governing use and operation of nonassisted units, common areas, and commercial space to the extent necessary to ensure compliance with program requirements;

(17) provisions authorizing enforcement of program requirements by the department and by tenants;

(18) special conditions of project operation imposed by the department as conditions of the department's approval of the loan;

(19) provisions specifying that the Regulatory Agreement shall be binding on all assigns and successors in interest of the sponsor and that all sales, transfers, and encumbrances of the rental housing development or interests therein shall be subject to section 8135;

(20) provisions providing for the continuance of the provisions of the Standard Agreement regarding program compliance for the full term of the Regulatory Agreement;

(21) provisions governing the use of operating income pursuant to sections 8117, 8123 and 8139; and

(22) other provisions necessary to assure compliance with the requirements of the program.

(d) All loans shall be evidenced by a promissory note payable to the department in the principal amount of the loan and stating the terms of the loan consistent with the requirements of the program. The note shall be secured by a deed of trust on the project property naming the department as beneficiary or by other security acceptable to the department; this deed of trust or other security shall be recorded junior only to such liens, encumbrances and other matters of record approved by the department and shall secure the department's financial interest in the project.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50893 and 50893.7, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8134. Disbursement of Loan Funds.

(a) A sponsor shall request funds from the department for actual expenditures in accordance with the schedule and the authorized amounts in the approved project budget in the Development Agreement. The information on any request for funds shall be subject to verification by the department. Requests for funds shall be made on form HCD 794, dated 12/90, Family Housing Demonstration Program "Request for Funds" as set forth in subsection (b). This form is provided by the department.

(b) Form HCD 794, dated 12/90, Family Housing Demonstration Program "Request for Funds":

HCD 794, 12/90

FAMILY HOUSING DEMONSTRATION PROGRAM
REQUEST FOR FUNDS #

1. BORROWER (Payee):

2. ADDRESS:

3. CONTRACT NUMBER:

4.

APPROVED LOAN AMOUNT	AMOUNT PER THIS REQUEST	PREVIOUSLY APPROVED	TOTAL AMOUNT BALANCE
$	$	$	$

5. USE OF FUNDS REQUESTED: (Specify line items per Development Agreement Budget.)

$
$
$
$

6. DRAW CHECK IN TOTAL AMOUNT OF: $

7. SEND CHECK TO: Department of Housing and Community Development
Accounting Office
P.O. Box 952050
Sacramento, CA 94252-2050

8. CERTIFICATION: I, the undersigned, do hereby certify that (1) the funds requested above will be used only in accordance with the above numbered State Standard Agreement and the Development Agreement entered into pursuant to this Standard Agreement, and only for eligible costs, as specified in the FHDP regulations; and (2) the Borrower and the project are in full compliance with the Standard Agreement, the Development Agreement, and all other agreements by and between the Borrower and the Department of Housing and Community Development entered into pursuant to the Standard Agreement.

Signed:

Title: Date:

----------DO NOT WRITE BELOW THIS LINE----------

The work performed for which this request for disbursement is presented is in accordance with all provisions of Contract Number _____between_____ and the Department of Housing and Community Development, and is hereby approved for payment.

Program Manager: _____ Date:_____

(c) Prior to the disbursement of funds, the sponsor shall provide or execute all required documents which the department determines are necessary to verify the claimed expenditure.

(d) The department may enter into agreements with other lenders or public or private entities to disburse funds and monitor construction and may make direct payments to such third-party contractors on behalf of sponsors.

(e) (1) For a sponsor that is a nonprofit corporation or a government entity, the department may disburse an initial advance payment subject to the following conditions:

(A) any required documents are executed by the sponsor;

(B) the sponsor is in compliance with all applicable conditions for the advance of funds;

(C) the sponsor submits a form 794, dated 12/90, Family Housing Demonstration Program "Request for Funds"; and

(D) the sponsor certifies that it does not have adequate funds to commence the project.

(2) The advance payment shall not exceed 25 percent of the approved administrative costs.

(3) All disbursements subject to the initial advance shall be made only to pay for actual eligible costs incurred.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50881.5(f), Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8135. Sales, Transfers, and Encumbrances.

(a) A sponsor shall not sell, assign, transfer, or convey a rental housing development, or any interest therein or portion thereof, without the express prior written approval of the department. A sale, transfer, or conveyance shall be approved only if all of the following requirements are met:

(1) the existing sponsor is in compliance with the Regulatory Agreement or the sale, transfer, or conveyance will result in the cure of any existing violations;

(2) the successor-in-interest to the sponsor agrees to assume all obligations of the existing sponsor pursuant to the Regulatory Agreement and this program;

(3) the successor-in-interest is an eligible sponsor pursuant to section 8113 and demonstrates to the department's satisfaction that it can successfully own and operate the rental housing development and comply with all program requirements; and

(4) no terms of the sale, transfer, or conveyance jeopardize either the department's security or the successor's ability to comply with all program requirements.

(b) The department's approval of sale, assignment, transfer, or conveyance subject to such terms and conditions as may be necessary to preserve or establish the fiscal integrity of the project. Such conditions shall include:

(1) the deposit of sales proceeds, or a portion thereof, to maintain required reserves, or to offset negative cash flow;

(2) the recapture of syndication proceeds or other funds in accordance with special conditions included in the Standard Agreement or any other agreement executed by the sponsor; and

(3) such conditions as may be necessary to ensure compliance with the program requirements.

(c) The sponsor shall not encumber, pledge, or hypothecate the rental housing development, or any interest therein or portion thereof, or allow any lien, charge, or assessment against the rental housing development without the prior written approval of the department. The department may permit refinancing of existing liens or additional financing secured by the rental housing development to the extent necessary to maintain or improve the fiscal integrity of the project, to maintain affordable rents, or to decrease rents.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50881.5 and 50893, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8136. Defaults and Loan Cancellations.

(a) In the event of a breach or violation by the sponsor of any of the provisions of the Regulatory Agreement, the Standard Agreement, the Development Agreement, the promissory note, or the deed of trust, or any other agreement pertaining to the project, the department may give written notice to the sponsor to cure the breach or violation within a period of not less than 15 days. If the breach or violation is not cured to the satisfaction of the department within the specified time period, the department, at its option, may declare a default under the relevant document and may seek legal remedies for the default including the following:

(1) The department may accelerate all amounts, including outstanding principal and interest, due under the loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amount in full, the department may proceed with a foreclosure in accordance with the provisions of the deed of trust and state law regarding foreclosures.

(2) The department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the project or operate the rental housing development in accordance with program requirements.

(3) The department may at its option seek such other remedies as may be available under the relevant agreement or any law.

(b) In the event that the breach or violation involves charging tenants rent or other charges in excess of those permitted under the Regulatory Agreement, the department may demand the return of such excess rents or other charges to the affected households. In any action to enforce the provisions of the Regulatory Agreement, the department may seek as additional remedy the repayment of such overcharges.

(c) Loan commitments may be canceled by the department under any of the following conditions:

(1) the objectives and requirements of the program cannot be met;

(2) the sponsor cannot meet the department's requirements for entering into the Regulatory Agreement, Development Agreement, promissory note, deed of trust or other agreement pertaining to the department in a timely fashion in accordance with the approved plans and schedules;

(3) special conditions for the disbursement of funds have not been fulfilled within required time periods;

(4) the construction or rehabilitation work has not commenced within one year of the date of loan approval;

(5) there has been a material change in the principals or management of the sponsor or project which was not approved by the department.

(6) a valid state or federal law or regulation precludes the department from fulfilling its obligations under the commitment;

Upon demonstration by the sponsor of good cause, the department may extend the date for compliance with any of the conditions in this subdivision.

(d) Upon receipt of a notice of intent to cancel the loan commitment from the department, the sponsor shall have the right to appeal to the Director.

(e) The department may use amounts available in the Account pursuant to section 8140(b) for the purpose of curing or avoiding a sponsor's default under the terms of any loan or other obligation if the department believes such default will jeopardize the completion of construction or rehabilitation, the fiscal integrity of such sponsor's project or the department's security in the project. Such default may include a failure or impending failure in payment due on a loan secured by a mortgage on the rental housing development, failure to pay taxes, or failure to maintain insurance or required reserves. The payment or advance of funds by the department pursuant to this subdivision shall be solely within the discretion of the department, and no sponsor shall be entitled to or have any right to payment of these funds. All funds so advanced shall be part of the program loan to the sponsor and subject to the same terms of repayment. Where it becomes necessary to use the Account for the purpose of assisting a project to avoid a threatened default or foreclosure, the department shall take those actions necessary including, but not limited to, foreclosures or forced sale of the rental housing development to prevent similar occurrences and insure compliance with the terms of the applicable agreements.

NOTE: Authority cited: Section 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50883.5(b), Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8137. Management and Maintenance.

(a) The sponsor shall be responsible for all management functions of the rental housing development including selection of the tenants, annual recertification of household income and size, evictions, and collection of rent.

(b) The sponsor is responsible for all repair and maintenance functions of the rental housing development, including ordinary maintenance and replacement of capital items. The sponsor shall maintain the residential units; the commercial space, if any; the child care center, if any; children's play area, if any; the community room, if any; and other common areas; in accordance with the Regulatory Agreement; local health, building, and housing codes and the management plan.

(c) For each congregate housing development, the sponsor shall require tenants to share responsibility for maintaining and cleaning the common areas. The sponsor shall enter into a resident management agreement with residents, subject to the approval of the department prior to execution, which shall:

(1) specify tenant and sponsor maintenance responsibilities and shall provide that the tenant shall not be financially responsible for any repair or replacement costs associated with maintaining the property;

(2) specify procedures for amending the agreement; and

(3) specify enforcement procedures for noncompliance.

(d) The sponsor, with the prior approval of the department, may contract with a management agent for the performance of the services or duties required in subdivision (a) or (b), or both, and to supplement the tenants' responsibilities set forth in subdivision (c). However, such an arrangement does not relieve the sponsor of responsibility for proper performance of these duties. Such contract shall be subject to department approval and contain a provision allowing the sponsor to terminate the contract upon thirty days' notice. The sponsor shall terminate said contract if directed by the department upon determination that management of the rental housing development does not comply with program requirements.

(e) The sponsor shall develop a management plan, subject to department approval prior to loan closing. The plan shall be consistent with this subchapter and shall include the following:

(1) a description of the role and responsibility of the sponsor and its delegation of authority, if any, to a managing agent;

(2) personnel policy and staffing arrangements of both the sponsor and any managing agent;

(3) plans and procedures for publicizing and achieving early and continued occupancy;

(4) the tenant selection plan as described in section 8121(a);

(5) procedures for determining tenant eligibility and for certifying and annually recertifying household income and size;

(6) plans for carrying out an effective maintenance and repair program, including the terms of the resident management agreement, if the rental housing development is a congregate housing development;

(7) rent collection policies and procedures;

(8) a description of a program for maintaining adequate accounting records and handling necessary forms and vouchers;

(9) plans for enhancing tenant–management relations;

(10) the management agreement, if any;

(11) a description of supportive service programs or job training and placement programs operated by the management agent, if any;

(12) provisions for periodic update of the management plan;

(13) for limited equity housing cooperatives, plans for board and member training and education;

(14) appeal and grievance procedures;

(15) plans for collection of payments for tenant–caused damages;

(16) plans for processing evictions and terminations; and

(17) equal opportunity provisions that apply to hiring and renting.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50893.9, Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8138. Reporting.

(a) No later than 90 days after the end of each fiscal year of a rental housing development, the sponsor shall report to the department on form HCD 795, dated 6/91, Family Housing Demonstration Program "Annual Sponsor Certification," as set forth in subsection (c). This form is provided by the department.

(b) As part of the form HCD 795, dated 6/91, Family Housing Demonstration Program "Annual Sponsor Certification," the sponsor shall submit an audit of the rental housing development prepared in accordance with generally accepted auditing standards by an independent certified public accountant. Upon a determination by the department that the cost

of meeting this requirement exceeds the potential benefits to the department and the tenants of the rental housing development, the department shall:

(1) reduce the required frequency of the audit;

(2) accept an audited financial statement of the sponsor in lieu of the audit; or

(3) waive this requirement completely.

(c) Form HCD 795, dated 6/91, Family Housing Demonstration Program "Annual Sponsor Certification":

HCD 795,6/91

FAMILY HOUSING DEMONSTRATION PROGRAM
ANNUAL SPONSOR CERTIFICATION
FISCAL YEAR

Contract Number:

Development Name:

Development Address:

Sponsor: Phone #: Fax # (if available):

The sponsor must send the Audit and Sponsor Certification to HCD within ninety (90) days after the fiscal year ends. Send one copy of the Audit and Sponsor Certification with original signatures, plus an additional copy of the Sponsor Certification.

Check here for forms included:

I.	FHDP Annual Sponsor Certification (all projects)	Page 1
II.	Occupancy and Rent Schedule (all projects)	Page 2
III.	Report of Actual Income (all projects)	Page 3
IV.	Report of Actual Expenses (all projects)	Page 4 & 5
V.	Calculation of Assisted Unit Expenses (all projects)	Page 6 & 7
VI.	Calculation of Nonassisted Unit Expenses (for projects w/nonassisted units)	Page 8 & 9
VII.	Calculation of Commercial Space Expenses (for projects w/commercial space)	Page 10 & 11
VIII.	Calculation of Child Care Center Expenses (for sponsor-operated centers)	Page 12 & 13
IX.	Child Care Income & Expenses (for contracted operators)	Page 14
X.	Uses of Net Operating Income (all projects)	Page 15
XI.	Report of FHDP Loan Payment Balances (all projects)	Page 16
XII.	Report of Vacancy Loss, Uncollectible Rents, and Service Payments (all projects)	Page 17
XIII.	Report of Replacement Reserve Account (all projects)	Page 18
XIV.	Report of Operating Reserve Account (all projects)	Page 19
XV.	Management Report (all projects)	Page 20
XVI.	Child Care Report (all projects)	Page 21 & 22
XVII.	Other Supportive Services Report (for projects offering other supportive services)	Page 23 & 24
XIIX.	Job Training and Employment Report (all projects)	Page 24 & 25
XIX.	Copy of Current Hazard Insurance Policy (all projects)	Page 26

Sponsor Certification ----------

It is hereby certified that all of the representations made by the Sponsor in the Regulatory Agreement and the financial disclosures and information contained in this report are true and correct, and that there is not any condition, event, or act which would constitute an event or default thereunder, or which with notice, passage of time, or both, would constitute such an event of default.

Sponsor Signature Date

Title

Register 92, Nos. 15–17; 4–24–92

II. OCCUPANCY AND RENT SCHEDULE (all projects)
FISCAL YEAR

Contract Number:

Development Name:

Prepared by:

Units - Assisted/Total:

										For FHDP Assisted Units	
Unit Number	Unit Dsngtn (vli,li mrkt, eld)	(A) Market Rent (Basic Rent)	(B) Apprvd. FHDP Rent	(C) Subsidy (if any) over FHDP Rent	(D) Tenant Portion of Rent	(E) No. of Months Occupd.	(F) Total Market Rent Rec'd. (AxE)	(G) Total Rent Rec'd (BxE)	(H) Total Rent Sbsdy (CxE)	Gross Hsehold Income	No. of Occupnts

Register 92, Nos. 15–17; 4–24–92

III. REPORT OF ACTUAL INCOME (all projects)
FISCAL YEAR

Contract Number: Development Name:

Units - Assisted/Total: Prepared by:

I. ASSISTED UNITS:	BUDGET (A)	ACTUAL (B)	HCD APPROVED (C)
1. Net Rental Income			
2. Rent Subsidies			
3. Prorated Interest Income			
4. Prorated Laundry Income			
5. Resident Collections			
6. Operating Reserve Withdrawals			
7. Prorated Other Project Income			
8. Subtotal Income - Assisted Units			
9. Uncollectible Rents			
10. Uncollectible Resident Damage			
11. Total Income - Assisted Units			
II. NONASSISTED UNITS:			
1. Sponsor Contributions			
2. Net Rental Income			
3. Rent Subsidies			
4. Prorated Interest Income			
5. Prorated Laundry Income			
6. Resident Collections			
7. Operating Reserve Withdrawals			
8. Prorated Other Project Income			
9. Subtotal Income - Nonassisted Units			
10. Uncollectible Rents			
11. Uncollectible Resident Damage			
12. Total Income - Nonassisted Units			
III. CHILD CARE CENTER: *			
1. Parent Fees			
2. Child Care Food/National School Lunch Program			
3. Reimbursement for GAIN children			
4. Reimbursement for WIN children			
5. Reimbursement from State Dept. of Education			
6. Reimbursement from JTPA			
7. Lease Payments			
8. Other (Specify)			
a.			
b.			
c.			
d.			
IV. COMMERCIAL INCOME			
V. TOTAL PROJECT INCOME			

* ONLY provide information regarding income that comes directly to the project sponsor. If the child care center is operated by a separate entity that receives subsidies, parent fees and/or private donations, DO NOT LIST these items as income to the project.

IV. REPORT OF ACTUAL EXPENSES (all projects)
FISCAL YEAR

Contract Number: **Development Name:**

Units - Assisted/Total: **Prepared by:**

ACCOUNT NAME	TOTAL EXPENSES		
MANAGEMENT FEE:	**BUDGET (A)**	**ACTUAL (B)**	**HCD APPROVED (C) HCD ONLY**
1. Sponsor Overhead			
2. Contract Management Fee			
3. TOTAL Management Fee:			
ADMINISTRATION:			
4. Leases			
5. Marketing/Advertising			
6. Audit			
7. Legal			
8. Transportation (Vehicle Maintenance)			
9. Telephone			
10. Business Licenses			
11. Miscellaneous Administrative Expenses			
12. TOTAL Administration:			
SALARIES & BENEFITS: (Include value of rent discounts)			
13. On-site or Off-site Manager			
14. Assistant Manager			
15. Desk Clerk			
16. Child Care Center Personnel			
17. Job Training/Emp. Tmg. Personnel			
18. Grounds/Maintenance Personnel			
19. Janitorial Personnel			
20. Other Supportive Services Personnel			
21. Other (Specify)			
22. TOTAL Salaries/Benefits:			
MAINTENANCE:			
23. Supplies			
24. Elevator Maintenance			
25. Pest Control			
26. Grounds Contract			
27. Interior Painting/Decorating			
28. Furniture, Fixtures & Equipment (Indoor/Outdoor)			
29. Other (Specify)			
30. TOTAL Maintenance:			
UTILITIES:			
31. Trash Removal			

* ONLY provide information regarding expenses of the on-site child care center that the project sponsor pays. If the child care center is operated by a separate entity, list only those items not reflected in Attachment IX.

IV. REPORT OF ACTUAL EXPENSES (all projects)-(Cont'd.)
FISCAL YEAR

	TOTAL EXPENSES		
UTILITIES (CONT'D.):	**BUDGET (A)**	**ACTUAL (B)**	**HCD APPROVED (C) HCD ONLY**
32. Electricity			
33. Gas			
34. Water & Sewer			
35. TOTAL Utilities:			
INSURANCE:			
36. Property/Liability Insurance			
37. Bonding			
38. Other (Specify)			
39. TOTAL Insurance:			
TAXES:			
40. Real Estate Taxes/PILOTS			
41. TOTAL Taxes:			
OTHER:			
42. Tenant Management/Training & Education			
43. Food			
44. Medical Expenses (Including First Aid Supplies)			
45. Transportation of Residents/Children			
46. Job Training & Employment Program			
47. Books and Supplies			
48. Other (Specify)			
49. Other (Specify)			
50. TOTAL Other:			
51. SUBTOTAL Operating Expenses:			
DEPOSITS TO RESERVE ACCOUNT			
52. Replacement Reserve			
53. Operating Reserve			
54. Other (Specify)			
55. TOTAL Reserves:			
FINANCIAL EXPENSES (NON-FHDP)			
56. Debt Service (1st)			
57. Debt Service (2nd)			
58. Other (Specify)			
59. Other (Specify)			
60. Other (Specify)			
61. TOTAL Financial Expenses:			
DISTRIBUTIONS:			
62. Distributions			
63. TOTAL EXPENSES:			

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V. CALCULATION OF ASSISTED UNIT EXPENSES (all projects)
FISCAL YEAR

Contract Number: **Development Name:**

Units - Assisted/Total: **Prepared by:**

ACCOUNT NAME	ASSISTED EXPENSES			
	TOTAL ACTUAL EXPENSES (D)	APPROVED PRORATION FACTOR (E)	ASSISTED UNIT ACTUAL (F)	ASSISTED UNIT BUDGET (G)
MANAGEMENT FEE:				
1. Sponsor Overhead				
2. Contract Management Fee				
3. TOTAL Management Fee:				
ADMINISTRATION:				
4. Leases				
5. Marketing/Advertising				
6. Audit				
7. Legal				
8. Transportation (Vehicle Maintenance)				
9. Telephone				
10. Business Licenses				
11. Miscellaneous Administrative Expenses				
12. TOTAL Administrative Expenses				
SALARIES & BENEFITS: (Include value of rent discounts)				
13. On-site or Off-site Manager				
14. Assistant Manager				
15. Desk Clerk				
16. Child Care Center Personnel				
17. Job Training/Emp. Trng Personnel				
18. Grounds/Maintenance Personnel				
19. Janitorial Personnel				
20. Other Supportive Services Personnel				
21. Other (Specify)				
22. TOTAL Salaries/Benefits:				
MAINTENANCE:				
23. Supplies				
24. Elevator Maintenance				
25. Pest Control				
26. Grounds Contract				
27. Interior Painting/Decorating				
28. Furniture, Fixtures & Equipment (Indoor/Outdoor)				
29. Other (Specify)				
30. TOTAL Maintenance:				
UTILITIES:				
31. Trash Removal				

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V. CALCULATION OF ASSISTED UNIT EXPENSES (all projects)-(Cont'd.)
FISCAL YEAR

	ASSISTED EXPENSES			
	TOTAL ACTUAL EXPENSES (D)	APPROVED PRORATION FACTOR (E)	ASSISTED UNIT ACTUAL (F)	ASSISTED UNIT BUDGET (G)
UTILITIES (CONT'D.)				
32. Electricity				
33. Gas				
34. Water & Sewer				
35. TOTAL Utilities:				
INSURANCE:				
36. Property/Liability Insurance				
37. Bonding				
38. Other (Specify)				
39. TOTAL Insurance:				
TAXES:				
40. Real Estate Taxes/PILOTS				
41. TOTAL Taxes:				
OTHER:				
42. Tenant Management/Training & Education				
43. Food				
44. Medical Expenses (Including First Aid Supplies)				
45. Transportation of Residents/Children				
46. Job Training & Employment Program				
47. Books and Supplies				
48. Other (Specify)				
49. Other (Specify)				
50. TOTAL Other:				
51. SUBTOTAL Operating Expenses				
DEPOSITS TO RESERVE ACCOUNT				
52. Replacement Reserve				
53. Operating Reserve				
54. Other (Specify)				
55. TOTAL Reserves:				
FINANCIAL EXPENSES (NON-FHDP)				
56. Debt Service (1st)				
57. Debt Service (2nd)				
58. Other (Specify)				
59. Other (Specify)				
60. Other (Specify)				
61. TOTAL Financial Expenses:				
DISTRIBUTIONS:				
62. Distributions				
63. TOTAL Expenses:				

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VI. CALCULATION OF NONASSISTED UNIT EXPENSES (for projects w/nonassisted units)
FISCAL YEAR

Contract Number: **Development Name:**

Units - Nonassisted/Total: **Prepared by:**

ACCOUNT NAME				
	NONASSISTED EXPENSES			
	TOTAL ACTUAL EXPENSES (D)	APPROVED PRORATION FACTOR (E)	NONASSISTED UNIT ACTUAL (F)	NONASSISTED UNIT BUDGET (G)
MANAGEMENT FEE:				
1. Sponsor Overhead				
2. Contract Management Fee				
3. TOTAL Management Fee:				
ADMINISTRATION:				
4. Leases				
5. Marketing/Advertising				
6. Audit				
7. Legal				
8. Transportation (Vehicle Maintenance)				
9. Telephone				
10. Business Licenses				
11. Miscellaneous Administrative Expenses				
12. TOTAL Administrative Expenses				
SALARIES & BENEFITS: (Include value of rent discounts)				
13. On-site or Off-site Manager				
14. Assistant Manager				
15. Desk Clerk				
16. Child Care Center Personnel				
17. Job Training/Emp. Trng Personnel				
18. Grounds/Maintenance Personnel				
19. Janitorial Personnel				
20. Other Supportive Services Personnel				
21. Other (Specify)				
22. TOTAL Salaries/Benefits:				
MAINTENANCE:				
23. Supplies				
24. Elevator Maintenance				
25. Pest Control				
26. Grounds Contract				
27. Interior Painting/Decorating				
28. Furniture, Fixtures & Equipment (Indoor/Outdoor)				
29. Other (Specify)				
30. TOTAL Maintenance:				
UTILITIES:				
31. Trash Removal				

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VI. CALCULATION OF NONASSISTED UNIT EXPENSES (for projects w/nonassisted units)-(Cont'd.)
FISCAL YEAR

	NONASSISTED EXPENSES			
	TOTAL ACTUAL EXPENSES (D)	APPROVED PRORATION FACTOR (E)	NONASSISTED UNIT ACTUAL (F)	NONASSISTED UNIT BUDGET (G)
UTILITIES (CONT'D.)				
32. Electricity				
33. Gas				
34. Water & Sewer				
35. TOTAL Utilities:				
INSURANCE:				
36. Property/Liability Insurance				
37. Bonding				
38. Other (Specify)				
39. TOTAL Insurance:				
TAXES:				
40. Real Estate Taxes/PILOTS				
41. TOTAL Taxes:				
OTHER:				
42. Tenant Management/Training & Education				
43. Food				
44. Medical Expenses (Including First Aid Supplies)				
45. Transportation of Residents/Children				
46. Job Training & Employment Program				
47. Books and Supplies				
48. Other (Specify)				
49. Other (Specify)				
50. TOTAL Other:				
51. SUBTOTAL Operating Expenses				
DEPOSITS TO RESERVE ACCOUNT				
52. Replacement Reserve				
53. Operating Reserve				
54. Other (Specify)				
55. TOTAL Reserves:				
FINANCIAL EXPENSES (NON-FHDP)				
56. Debt Service (1st)				
57. Debt Service (2nd)				
58. Other (Specify)				
59. Other (Specify)				
60. Other (Specify)				
61. TOTAL Financial Expenses:				
DISTRIBUTIONS:				
62. Distributions				
63. TOTAL Expenses:				

VII. CALCULATION OF COMMERCIAL SPACE EXPENSES (for projects w/commercial space)
FISCAL YEAR

Contract Number: **Development Name:**

Units - Assisted/Total: **Prepared by:**

ACCOUNT NAME	COMMERCIAL SPACE EXPENSES			
	TOTAL ACTUAL EXPENSES (D)	APPROVED PRORATION FACTOR (E)	COMMERCIAL SPACE ACTUAL (F)	COMMERCIAL SPACE BUDGET (G)
MANAGEMENT FEE:				
1. Sponsor Overhead				
2. Contract Management Fee				
3. TOTAL Management Fee:				
ADMINISTRATION:				
4. Leases				
5. Marketing/Advertising				
6. Audit				
7. Legal				
8. Transportation (Vehicle Maintenance)				
9. Telephone				
10. Business Licenses				
11. Miscellaneous Administrative Expenses				
12. TOTAL Administrative Expenses				
SALARIES & BENEFITS: (Include value of rent discounts)				
13. On-site or Off-site Manager				
14. Assistant Manager				
15. Desk Clerk				
16. Child Care Center Personnel				
17. Job Training/Emp. Tmg Personnel				
18. Grounds/Maintenance Personnel				
19. Janitorial Personnel				
20. Other Supportive Services Personnel				
21. Other (Specify)				
22. TOTAL Salaries/Benefits:				
MAINTENANCE:				
23. Supplies				
24. Elevator Maintenance				
25. Pest Control				
26. Grounds Contract				
27. Interior Painting/Decorating				
28. Furniture, Fixtures & Equipment (Indoor/Outdoor)				
29. Other (Specify)				
30. TOTAL Maintenance:				
UTILITIES:				
31. Trash Removal				

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VII. CALCULATION OF COMMERCIAL SPACE EXPENSES (for projects w/commercial space)-(Cont'd.)
FISCAL YEAR

	COMMERCIAL SPACE EXPENSES			
	TOTAL ACTUAL EXPENSES (D)	APPROVED PRORATION FACTOR (E)	COMMERCIAL SPACE ACTUAL (F)	COMMERCIAL SPACE BUDGET (G)
UTILITIES (CONT'D.)				
32. Electricity				
33. Gas				
34. Water & Sewer				
35. TOTAL Utilities:				
INSURANCE:				
36. Property/Liability Insurance				
37. Bonding				
38. Other (Specify)				
39. TOTAL Insurance:				
TAXES:				
40. Real Estate Taxes/PILOTS				
41. TOTAL Taxes:				
OTHER:				
42. Tenant Management/Training & Education				
43. Food				
44. Medical Expenses (Including First Aid Supplies)				
45. Transportation of Residents/Children				
46. Job Training & Employment Program				
47. Books and Supplies				
48. Other (Specify)				
49. Other (Specify)				
50. TOTAL Other:				
51. SUBTOTAL Operating Expenses				
DEPOSITS TO RESERVE ACCOUNT				
52. Replacement Reserve				
53. Operating Reserve				
54. Other (Specify)				
55. TOTAL Reserves:				
FINANCIAL EXPENSES (NON-FHDP)				
56. Debt Service (1st)				
57. Debt Service (2nd)				
58. Other (Specify)				
59. Other (Specify)				
60. Other (Specify)				
61. TOTAL Financial Expenses:				
DISTRIBUTIONS:				
62. Distributions				
63. TOTAL Expenses:				

VIII. CALCULATION OF CHILD CARE CENTER EXPENSES (for sponsor-operated centers)
FISCAL YEAR

Contract Number: **Development Name:**

Units - Assisted/Total: **Prepared by:**

ACCOUNT NAME	(Complete ONLY if Project Sponsor is the Child Care Center Operator)			
	CHILD CARE CENTER EXPENSES			
	TOTAL ACTUAL EXPENSES (D)	APPROVED PRORATION FACTOR (E)	CHILD CARE CENTER ACTUAL (F)	CHILD CARE CENTER BUDGET (G)
MANAGEMENT FEE:				
1. Sponsor Overhead				
2. Contract Management Fee				
3. TOTAL Management Fee:				
ADMINISTRATION:				
4. Leases				
5. Marketing/Advertising				
6. Audit				
7. Legal				
8. Transportation (Vehicle Maintenance)				
9. Telephone				
10. Business Licenses				
11. Miscellaneous Administrative Expenses				
12. TOTAL Administrative Expenses				
SALARIES & BENEFITS: (Include value of rent discounts)				
13. On-site or Off-site Manager				
14. Assistant Manager				
15. Desk Clerk				
16. Child Care Center Personnel				
17. Job Training/Emp. Trng Personnel				
18. Grounds/Maintenance Personnel				
19. Janitorial Personnel				
20. Other Supportive Services Personnel				
21. Other (Specify)				
22. TOTAL Salaries/Benefits:				
MAINTENANCE:				
23. Supplies				
24. Elevator Maintenance				
25. Pest Control				
26. Grounds Contract				
27. Interior Painting/Decorating				
28. Furniture, Fixtures & Equipment (Indoor/Outdoor)				
29. Other (Specify)				
30. TOTAL Maintenance:				
UTILITIES:				
31. Trash Removal				

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VIII. CALCULATION OF CHILD CARE CENTER EXPENSES (for sponsor-operated centers) - (Cont'd.)
FISCAL YEAR

	CHILD CARE CENTER EXPENSES			
	TOTAL ACTUAL EXPENSES (D)	APPROVED PRORATION FACTOR (E)	CHILD CARE CENTER ACTUAL (F)	CHILD CARE CENTER BUDGET (G)
UTILITIES (CONT'D.)				
32. Electricity				
33. Gas				
34. Water & Sewer				
35. TOTAL Utilities:				
INSURANCE:				
36. Property/Liability Insurance				
37. Bonding				
38. Other (Specify)				
39. TOTAL Insurance:				
TAXES:				
40. Real Estate Taxes/PILOTS				
41. TOTAL Taxes:				
OTHER:				
42. Tenant Management/Training & Education				
43. Food				
44. Medical Expenses (Including First Aid Supplies)				
45. Transportation of Residents/Children				
46. Job Training & Employment Program				
47. Books and Supplies				
48. Other (Specify)				
49. Other (Specify)				
50. TOTAL Other:				
51. SUBTOTAL Operating Expenses				
DEPOSITS TO RESERVE ACCOUNT				
52. Replacement Reserve				
53. Operating Reserve				
54. Other (Specify)				
55. TOTAL Reserves:				
FINANCIAL EXPENSES (NON-FHDP)				
56. Debt Service (1st)				
57. Debt Service (2nd)				
58. Other (Specify)				
59. Other (Specify)				
60. Other (Specify)				
61. TOTAL Financial Expenses:				
DISTRIBUTIONS:				
62. Distributions				
63. TOTAL Expenses:				

IX. CHILD CARE CENTER INCOME AND EXPENSES (for contracted operators) FISCAL YEAR

Contract Number: **Development Name:**

Name of Facility: **#FHDP Slots/Total Slots:**

I. INCOME	BUDGET	ACTUAL
1. Parent Fees		
2. Child Care Food/National Lunch Program		
3. Reimbursement for GAIN children		
4. Reimbursement for WIN children		
5. Reimbursement from State Dept. of Education		
6. Reimbursement from JPTA		
7. Lease Payments		
8. Other (Specify)		
a.		
b.		
c.		
d.		
9. TOTAL INCOME		
II. EXPENSES		
10. Care and Services		
a. Food		
b. Housekeeping - Cleaning supplies..... Laundry and dry cleaning.....		
c. Equipment for programs and recreational activities		
d. Books, newspapers, magazines, etc.		
e. Medical expenses (including first-aid supplies)		
f. Transportation for clients		
11. General Administration		
a. Salaries (professional, clerical, housekeeping, etc.)		
b. Fringe benefits (Unemployment Insurance, Worker's Comp, OASDI, retirement fund)		
c. Transportation (Gen.) Auto maintenance, insurance		
d. Telephone		
e. Office supplies, postage, etc.		
f. Advertising, publicity, printing, etc.		
g. Business licenses, professional memberships, conference cost, etc.		
h. Bonding and public liability insurance		
i. Fire insurance		
12. Physical Plant		
a. Rent, lease, or mortgage payments		
b. Taxes (on personal and real property)		
c. Utilities: Gas..... Electricity..... Water.....		
d. Rubbish and garbage collection		
e. Maintenance and repairs: For equipment..... For buildings and grounds.....		
f. Furniture and equipment		
13. TOTAL EXPENSES		
III. GROSS PROFIT (OR LOSS) (Line 4 minus Line 8)		

Completed by:	Title:	Date:

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X. USES OF NET OPERATING INCOME (all projects)
FISCAL YEAR

Contract Number: **Development Name:**

Units - Assisted/Total: **Prepared by:**

	Assisted Units	Nonassisted Units	Residential Total	Child Care Center	Commercial Space
1. Actual Income					
2. Approved Budgeted Operating Expenses	( )	( )	( )	( )	( )
3. Actual Operating Expenses	( )	( )	( )	( )	( )
4. Lesser of Line 2 or 3	( )	( )	( )	( )	( )
5. Net Operating Income (Line 1 minus Line 4)					
6. Deposit to Reserve Accounts	( )	( )	( )	( )	( )
7. Transfer of Income from Account*	( )	( )	( )	( )	( )
8. Receipt of Income from Transfer (Reapportioned Income)					
9. Sponsor Distributions					
10. FHDP Interest Payments					
11. FHDP Principal Payments					
12. Amount to Deposit in HCD Emergency Reserve Fund					

*List income from nonassisted units or commercial space used to subsidize assisted units or child care center; or income from assisted units used to subsidize child care center. The totals of lines 7 and 8 should be zero.

XI. REPORT OF FHDP LOAN PAYMENT BALANCES (all projects)

FISCAL YEAR

Contract Number: **Development Name:**

Units - Assisted/Total: **Prepared By:**

	AMOUNT
1. Original Principal Amount	
2. Total Principal Paid in Previous Years	
3. Principal Paid in This Fiscal Year	
4. Outstanding Principal Balance	
5. Total Interest Due in Previous Years	
6. Interest Due in This Fiscal Year	
7. Total Interest Due	
8. Total Interest Paid in Previous Years	
9. Interest Paid in This Fiscal Year	
10. Total Interest Paid	
11. Outstanding Interest Balance	

XII. REPORT OF VACANCY LOSS, UNCOLLECTIBLE RENTS & SERVICE PAYMENTS (all projects)

FISCAL YEAR

Contract Number: **Development Name:**

Units - Assisted/Total: **Prepared By:**

	Proposed (A)	Approved (B)
ASSISTED UNITS:		
1. Rent Loss Due to Vacancy		
2. Uncollectible Rents & Service Payments		
3. Total Rent Loss - Assisted Units		
NONASSISTED UNITS:		
4. Rent Loss Due to Vacancy		
5. Uncollectible Rents & Service Payments		
6. Total Rent Loss - Nonassisted Units		
COMMERCIAL SPACE:		
7. Rent Loss Due to Vacancy		
8. Uncollectible Rents		
9. Total Rent Loss - Commercial Space		
10. TOTAL PROJECT RENT LOSS		

XIII. REPORT OF REPLACEMENT RESERVE ACCOUNT (all projects)

FISCAL YEAR

Contract Number: **Development Name:**

Units - Assisted/Total: **Prepared By:**

	Proposed (A)	Approved (B)
1. Beginning Balance		
2. Deposits		
3. Withdrawals		
4. Ending Balance		
5. Summary of Withdrawals		
6. TOTAL WITHDRAWALS		

Footnotes:

XIV. REPORT OF OPERATING RESERVE ACCOUNT (all projects) FISCAL YEAR

Contract Number: **Development Name:**

Units - Assisted/Total: **Prepared By:**

	PROPOSED (A)	APPROVED (B)
1. Beginning Balance		
2. Deposits		
3. Withdrawals		
4. Ending Balance		
5. Summary of Withdrawals		
6. TOTAL WITHDRAWALS		

Footnotes:

XV. MANAGEMENT REPORT (all projects)
FISCAL YEAR

1. Describe any notice or citation for violation of local housing codes.

2. Describe any major purchases or maintenance work undertaken in the reporting year.

3. Describe any major repair or maintenance work still needed.

4. Determine vacancy rate by completing (a) through (e) below.

   (a) Total number of units: x 12 months = unit months

   (b) Number of vacant units during the year:

   (c) Number of months vacant

   (d) Number of vacant unit months:

   (b) x (c) = (d)

   (e) Vacancy rate:

   (d) ÷ (a) = %

5. How many households were evicted during the year? List each eviction by unit number and explain reason for each.

6. Describe any problems which arose in filling vacancies and steps taken to address them.

7. How many names are currently on the waiting list?

   Lower-income applicants
   Very low-income applicants
   Families with children
   Elderly applicants
   Total

8. Describe any additional management problems that occurred during the past fiscal year and steps taken to solve management problems.

9. Have there been any changes in property management staff responsible for the project? If so, identify new staff and attach their resumes.

XVI. CHILD CARE REPORT
FISCAL YEAR

Section 1. To be completed by all projects with on-site child care centers.

1. a. Full name of child care center operator:

   b. Attach a copy of the contract, if the child care center is not operated by the sponsor.

   c. Will the contract be renewed? If not, why not? Explain who will operate the child care center.

2. a. When was your license last renewed?

   b. Were any deficiencies noted by the Department of Social Services (DSS)? If so, attach notice of deficiency issued by DSS. Explain how the deficiency was resolved.

3. Describe any problems experienced in establishing, implementing and/or operating the child care center. How were these problems resolved?

4. Describe the changes that will be made in the next year to improve the quality of the child care center.

5. Describe how your center used volunteers. Include in your description the pool of volunteers, number of volunteers, number of donated hours, and type of training provided.

6. Complete the program information chart on the following page.

Section 2. To be completed by congregate projects without on-site child care.

1. Describe the assistance provided to residents in locating child care. Identify all child care centers and family day care homes used by residents.

2. Number of FHDP households assisted

   Number of FHDP children assisted

3. Describe the ways that the child care was made affordable to families. List the amounts and type of subsidy provided to families.

4. Describe the changes that will be made in the next year to improve your child care assistance to residents.

XVI. CHILD CARE REPORT (Cont'd.)
PROGRAM INFORMATION CHART
FISCAL YEAR

Contract Number:

Development Name:

Name of Child Care Facility:

Name of Child Care Center Operator:

License #:

Prepared by:

Name

Title

	Total Licensed Slots	Days of Operation	Days of Enrollment: Children of FHDP Households	Days of Enrollment: Children of Other Residents (Non-FHDP Households)	Days of Enrollment: Children of Non-Residents	Average Monthly Parent Fee Per FHDP Household	Monthly Average: # of FHDP Children on Waiting List
Infants							
Preschool							
School Age							

Monthly average: Number of FHDP households with children residing in development:

Monthly average: Number of FHDP households in need of child care*:

TOTAL of FHDP children enrolled:

TOTAL of FHDP households with enrolled children:

* due to job training or employment

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XVII. SUPPORTIVE SERVICES REPORT
FISCAL YEAR

1. Complete the program information chart on the following page.

2. Describe a few case histories that illustrate ways that residents have benefitted from these supportive services.

3. Describe the problems experienced in establishing, implementing and/or operating supportive services. How were these problems resolved?

4. Describe the issues/problems that residents had that were not anticipated. How were these problems addressed?

5. Describe the changes that will be made in the next year to improve the quality of the supportive services offered to residents.

XVII. SUPPORTIVE SERVICES REPORT (Cont'd.)
PROGRAM INFORMATION CHART
FISCAL YEAR

Contract Number:

Development Name:

Prepared by:

Name Title

Type of Supportive Service Offered	Name/Address/Phone of Organization Providing Service	Cost of Service (to Sponsor and/or Household)	Value of Service	# of FHDP Households Participating	# of FHDP Households Unable to Participate (Waiting List)	Average # of Non-FHDP Households Participating on a Monthly Basis

XVIII. JOB TRAINING AND EMPLOYMENT REPORT
FISCAL YEAR

1. Complete the Job Training and Employment Program Information Chart on the following page.

2. Describe the steps you have taken to implement your job training and placement program.

3. Describe how services are coordinated, including program marketing to tenants, family case management, and follow-up. Attach a resume of sponsor staff who are responsible for program coordination and indicate their job duties and average weekly hours.

4. Describe the employment status of both current and new FHDP residents.

FHDP Residents Upon Entry This Fiscal Year	All FHDP Residents
# Unemployed	
In Training/Education or Voc. Ed Programs	
Employed	
Full-Time	
Part-Time	

5. Describe the types of jobs for which residents have been trained both within the rental development and community at large. What is the average wage of these jobs? List the positions held within the development of FHDP households.

6. Describe how your program defines success in the Job Training and Employment program and to what extent your program has been successful. Provide case histories to illustrate success.

7. Describe which employment service components most contributed to your successes and which need to be changed, modified, and/or improved.

8. Describe the problems in establishing, implementing and/or operating the job training program. How were these problems resolved?

9. What recommendations could be made to project sponsors to coordinate or set up a similar employment program?

XVIII. JOB TRAINING AND EMPLOYMENT REPORT (Cont'd.)
PROGRAM INFORMATION CHART
FISCAL YEAR

Contract Number:

Prepared by:
Name Title

Development Name:

Component	Organization Name Address and Phone # Providing Services	Average # of FHDP Residents Participating Per Month	Average Value of Service per FHDP Resident	Funding Source	Average # of FHDP Residents on Waiting List
Individual Vocational Assessment					
Pre-Employment Training (including remedial ed, ESL, GED)					
Employment Training (including job interview skills, job skills)					
Employment Placement					
Other: (Specify)					
Other: (Specify)					

Prepared by: Name Title

Type of Supportive Service Offered	Name/Address/Phone of Organization Providing Service	Cost of Service (to sponsor and/or household)	Value of Service	# of FHDP Households Participating	# of FHDP Households Unable to Participate (Waiting List)	Average # of Non-FHDP Households Participating on a Monthly Basis

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NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50893.7, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8139. Operating Budget.

(a) Prior to loan closing, the sponsor shall provide the department an initial operating budget for its approval. Such budget shall show all anticipated income, expenses for management, operations, and maintenance, debt service and reserve deposits for the initial operating year.

(b) Sixty days prior to the end of each current fiscal year of each project the sponsor shall submit to the department for its approval a proposed operating budget, including an accounting of the housing component, supportive service component, and job training and placement program.

(1) The proposed operating budget shall set forth the sponsor's estimate of the operating income, operating expenses, and debt service for the upcoming year associated with the housing component, and any proposed rent increases pursuant to section 8122.

(2) The proposed operating budget for the supportive service component shall set forth sponsor's estimate of the operating income and expenses for the upcoming year associated with the provision of supportive services.

(3) The proposed operating budget for job training and placement programs shall set forth the sponsor's estimate of the operating income and expenses for the upcoming year associated with the provision of such programs.

(c) The Department's approval of the initial and subsequent proposed operating budgets shall be based on its determination that the budget line items are reasonable and necessary in light of costs for comparable rental housing developments and prior operating budgets for the rental housing development. Actual expenditures or withdrawals from reserve funds in excess of the approved budget amount shall be subject to prior written approval of the department.

(d) The initial operating budget and subsequent proposed operating budgets shall include periodic deposits, on no less than an annual basis, to:

(1) a replacement reserve account for capital improvements, such as replacing structural elements, furniture, fixtures, or equipment of the rental housing development, which are reasonably required to preserve the project; and

(2) an operating reserve account in an amount sufficient to offset potential shortfalls in operating the housing component and the required supportive services and the job training and placement programs.

(e) Upon initial occupancy, the amount in the operating reserve account shall be at least 2 percent of total project development costs and the replacement reserve shall be at least one percent of the total project development costs.

(f) For projects with a child care center, nonassisted units, or commercial space, all budgets submitted pursuant to this section shall show income and uses of income allocated among assisted units, nonassisted units, the child care center, and commercial space. The allocation method used for each budget line item shall be subject to department approval and shall apportion income and expenses in a manner that accurately reflects the particular physical, operational and economic characteristics of the project.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 50893.7(i), Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8140. Emergency Reserve Subaccount.

(a) The department shall establish an emergency reserve subaccount in the Account. Three (3) percent of any allocation made to the Account pursuant to Health and Safety Code section 53130(a) shall be deposited into the emergency reserve subaccount. Excess funds returned to the department pursuant to section 8123(h) and 8117(e)(2)(B) shall be deposited into the emergency reserve subaccount to first, replace the allocated funds in the subaccount on a dollar-for-dollar basis and then to replenish the emergency reserve subaccount. Excess funds received which cause the emergency reserve subaccount to exceed three percent of all allocations to the Account shall transfer to the Account and become available for loans pursuant to this subchapter.

(b) The department shall maintain a default reserve subaccount, as a portion of the emergency reserve subaccount, in an amount equal to 2 percent of all allocations to the Account pursuant to Health and Safety Code section 53130(a) for the purpose of avoiding or curing defaults pursuant to section 8136(e).

(c) When funds in the emergency reserve subaccount exceed the 2 percent required to be maintained pursuant to subdivision (b), the department shall be authorized to advance funds from the emergency reserve subaccount to defray unanticipated cost increases or revenue shortfalls to the extent necessary to preserve fiscal integrity of any project and to maintain rents in accordance with program requirements. All funds so advanced shall be part of the program loan to the sponsor and subject to the same interest rate and terms of repayment.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50883.5(b) and 53130, Health and Safety Code.

HISTORY

1. New section filed 12-14-90 as an emergency; operative 12-14-90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4-15-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4-16-91.
3. New section filed 7-19-91 as an emergency; operative 7-19-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11-6-91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11-15-91 as an emergency; operative 11-15-91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3-16-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-15-91 order transmitted to OAL 12-12-91 and filed 1-13-92 (Register 92, No. 16).

§ 8141. Feasibility Subaccount.

(a) The department shall establish a feasibility subaccount in the Account. Four (4) percent of any allocation made to the Account pursuant to Health and Safety Code section 53130(a) shall be deposited into the feasibility subaccount. Excess funds returned to the department pursuant to section 8123(h) and 8117(e)(2)(B) shall be deposited into the feasibility subaccount to first replace the allocated funds in the subaccount on a dollar-for-dollar basis and then to replenish the feasibility subaccount. Excess funds received which cause the subaccount to exceed four percent of all allocations to the Account shall transfer to the Account and become available for loans pursuant to this subchapter.

(b) To the extent necessary to assure or preserve fiscal integrity and to establish or maintain rents in accordance with program requirements, the department shall be authorized to advance funds from the feasibility subaccount when necessary:

(1) to defray unforeseeable construction cost increases prior to the completion of construction; or

(2) to defray unforeseeable capital expenses at any time during the term of the loan.

(c) All funds advanced pursuant to subdivision (b) shall be part of the program loan to the sponsor and subject to the same interest rate and terms of repayment.

(d) Upon determination that another percentage is more appropriate based on the actual demand on the subaccount by program sponsors, the department shall alter the percentage of the allocation that is required to be maintained in the subaccount in order to meet the actual demand.

(1) Such a determination will occur either at the time of a new allocation to the Account or during the annual review of the subaccount.

(2) The percentage of all allocations to the Account that shall be maintained in this subaccount shall not be adjusted to exceed ten percent.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Sections 50883.5(a) and 53130, Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

§ 8142. Approvals.

Except during the application process set forth in section 8130, where the department's approval is required throughout this subchapter the following process shall apply:

(a) The sponsor shall apply for the approval by providing the department with a written request mailed to the Family Housing Demonstration Program, Division of Community Affairs, Department of Housing and Community Development, P.O. Box 952054, Sacramento, CA 94252–2054 or panafax to (916) 323–6625. All documentation or information necessary for the approval shall accompany the request.

(b) Within 30 working days of the receipt of the request for approval, the department shall notify the sponsor in writing if the required documentation and information are not complete. If the documentation and information are not complete, the department will specify what additional documentation and information are needed.

(c) Within 30 working days of the notification to the sponsor of whether the request for approval is complete, the department shall notify the sponsor in writing whether approval is provided. If approval is not provided, the department shall provide the reasons for denying approval.

(d) A complete request for approval is one which provides all documentation and information necessary for the department to make a determination as to whether approval can be provided.

NOTE: Authority cited: Sections 50406(n), 50884 and 50895, Health and Safety Code. Reference: Section 15376, Government Code; and Section 50884, Health and Safety Code.

HISTORY

1. New section filed 12–14–90 as an emergency; operative 12–14–90 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL by 4–15–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law on 4–16–91.
3. New section filed 7–19–91 as an emergency; operative 7–19–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 11–6–91 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 11–15–91 as an emergency; operative 11–15–91 (Register 92, No. 16). A Certificate of Compliance must be transmitted to OAL 3–16–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–15–91 order transmitted to OAL 12–12–91 and filed 1–13–92 (Register 92, No. 16).

Subchapter 17. State HOME Investment Partnership Act Program

Article 1. General

§ 8200. Purpose and Scope.

(a) These regulations establish procedures for the award and disbursement of HOME funds and establish policies and procedures for use of these funds to meet the purposes contained in Title II of Public Law No. 101–625, 104 Stat. 4079 (Nov. 28, 1990), (42 USC 12701), known as the Cranston–Gonzalez National Affordable Housing Act of 1990 as amended by the Housing and Community Development Act of 1992, Public Law No. 102–550.

(b) The Cranston–Gonzalez National Affordable Housing Act of 1990 and any amendments thereto provide for state administration of the Home Investment Partnerships Program. These regulations set forth the policies and procedures governing the department's management of these funds. In addition to these regulations, program participants shall comply with the HOME rules applicable to the state program as set forth in 24 CFR part 92. In the event that Congress, the California Legislature, or HUD add or change any statutory or regulatory requirements concerning the use or management of these funds, program participants shall comply with such requirements.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR part 92; and sections 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. New subchapter 17 (articles 1–4, sections 8200–8219) filed 7–2–92 as an emergency; operative 7–2–92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10–30–92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–23–92 as an emergency; operative 10–30–92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2–23–93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3–2–93 as an emergency; operative 3–2–93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6–30–93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–2–93 order including amendment of section and NOTE transmitted to OAL 5–26–93 and filed 7–7–93 (Register 93, No. 28).
5. Amendment of NOTE filed 3–14–97; operative 3–14–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).

§ 8201. Definitions.

In addition to the definitions found in 24 CFR Section 92.2, the following definitions shall apply to this subchapter. These definitions are further provided to clarify applicable provisions contained in 24 CFR Section 92.2.

(a) "Administrative subcontractor" means any entity or individual which contracts with the State Recipient or CHDO to provide any portion of administrative services to the local HOME activity. Individuals or groups that are acting in the capacity of developer, owner, or sponsor of a project shall not act as administrative subcontractors for the activity.

(b) "Applicant" is any city, county, or CHDO which submits an application to the Department to operate programs or develop or rehabilitate projects using HOME Funds within a specified jurisdictional boundary.

(c) "Award letter" means a conditional reservation letter signed by the director indicating that the Department has reserved funds for a project or program subject to meeting specific conditions in the regulations.

(d) RESERVED.

(e) "CFR" is the acronym used for the Code of Federal Regulations.

(f) "CHDO" is the acronym for Community Housing Development Organization and means those organizations which meet the criteria set forth in 24 CFR Section 92.2 and are certified by the Department pursuant to Section 8204.1.

(g) "Conditional reservation" means the Department has reserved funds for a project or program subject to meeting specific conditions in the regulations and in the award letter.

(h) "Department" means the State of California, Department of Housing and Community Development, which shall serve as a participating jurisdiction as defined by 24 CFR Section 92.2, for the purposes of this program.

(i) "Director" means the director of the Department.

(j) "Family" is a household consisting of an individual or two or more persons who by blood or marriage, or otherwise, live together in a housing unit.

(k) "Federal disbursement and information system" is the computerized system operated by HUD which manages, disburses, collects data and reports on the use of HOME funds.

(l) "First-time homebuyer" means an individual or individuals or an individual and his or her spouse who have not owned a home during the three-year period before the purchase of a home with HOME assistance, except that the following individual or individuals may not be excluded from consideration as a first-time homebuyer under this definition:

(1) a displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family;

(2) a single parent who, while married, owned a home with his or her spouse or resided in a home owned by a spouse. A single parent is an individual who: 1) is unmarried or legally separated from a spouse, and 2) has custody or joint custody of one or more minor children or is pregnant; or

(3) an individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of a home with HOME assistance, a dwelling unit whose structure is:

(i) not permanently affixed to a permanent foundation in accordance with local or state regulations; or

(ii) not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(m) "First-time homebuyer program" means HOME funds are provided to a city, county or CHDO to administer a program to assist first-time homebuyers. Eligible uses of these funds consist of: 1) a city or county providing a loan to the homebuyer for acquisition and up to $10,000 for rehabilitation of a dwelling that the homebuyer selects from the open market; provided the work is done after transfer of ownership interest; and 2) a city, county or CHDO providing assistance for the construction of scattered site dwellings, with no more than four dwellings on each vacant site, and each site shall be in an existing built-out neighborhood. Such dwellings shall then be sold to first-time homebuyers.

(n) "First-time homebuyer project" means that HOME funds are used to develop a specified number of units to be sold to first-time homebuyers. By the conclusion of construction, the entire HOME investment shall be converted to mortgage assistance to the first-time homebuyers.

(o) "Funding cycle" means the annual period of time during which HUD makes funds available to the Department for distribution pursuant to the Act, and includes the period of time during which the Department solicits applications and makes conditional reservations of funds.

(p) "HOME" is the abbreviation used for the Department-administered Home Investment Partnerships Program.

(q) "HOME fund" means the account established in the U.S. Treasury Account of the HOME Investment Trust Fund, to which funds for the Department's use in the HOME program are allocated.

(r) "Housing" means any structure, which is currently for residential use, or proposed for residential use, in whole or in part, including manufactured housing as defined in Health and Safety Code Section 18007.

(s) "Housing element in substantive compliance" means the local public entity's adopted housing element is in substantive compliance as demonstrated by a letter from the Department which sets forth findings that the housing element adopted within the time frames required by Section 65588 of the Government Code includes that substance essential to every requirement of Article 10.6, commencing with Section 65580, of Chapter 3 of Division 1 of Title VII of the Government Code.

(t) "HUD" means the United States Department of Housing and Urban Development.

(u) "Leverage" means all documented monetary and non-monetary contributions, other than HOME funds, which have been assigned a measurable value and which are applied to the specific HOME-assisted project. Leverage does not include contributions toward the cost of non-low-income units and commercial space.

(v) "Local account" is an account maintained by the Department, or State Recipient, or CHDO, as may be specified in an agreement between the Department and a State Recipient, or CHDO, which shall include repayments of HOME funds and matching contributions and any payment of interest or other return on the investment of HOME funds and matching contributions.

(w) "NOFA" is the acronym used for Notice of Funding Availability. The NOFA is the document used by the Department to announce that funds are available and applications may be submitted.

(x) "Owner-occupied housing program" means funds are provided to a city or county to administer a program to assist owners of homes that are in need of rehabilitation as defined in Section 8201(y).

(y) "Rehabilitation" means repairs and improvements to substandard housing which are necessary to meet rehabilitation standards as defined in Section 50097 of the Health and Safety Code, to eliminate conditions specified in Section 17920.3 of the Health and Safety Code, and to meet housing quality standards as set forth in 24 CFR Section 882.109. Rehabilitation also means repairs and improvements which are necessary to meet any locally-adopted standards used in local rehabilitation programs. Rehabilitation shall include reconstruction.

(z) "Rental new construction project" means funds are provided to develop a specific multifamily project on a specific site by a specific developer.

(aa) "Rental rehabilitation and/or acquisition program" means funds are provided to a city or county to administer a program to assist owners of multi-unit rental housing that is in need of rehabilitation as defined in 8201(y) or to assist the purchase and rehabilitation of multi-unit rental housing that is in need of rehabilitation. No one property assisted through this program shall receive more than 40 percent of the activity amount.

(bb) "Rental rehabilitation and/or acquisition projects" means funds are provided to acquire a specific rental housing project, to rehabilitate a specific project without any transfer of ownership, or to both acquire and rehabilitate a specific project.

(cc) "Rural area" means the same as defined in Section 50199.21 of the Health and Safety Code.

(dd) "Set up" means all of the funding conditions required by HUD and the Department have been met and the State Recipient or CHDO is ready to establish a project-specific account in the federal disbursement and information system.

(ee) "Setaside" means HOME funds, which are designated to be used for a specific purpose necessary to meet any statutory or regulatory requirement.

(ff) "State Recipient" means a city or county, which is designated to receive an award of HOME funds from the Department.

(gg) "Tenant-based rental assistance program" means funds are provided to a city or county to administer a program to provide rent subsidies to eligible households. State Recipients who administer a tenant-based rental assistance program are eligible only for administrative funds to reimburse expenses eligible under 24 CFR Section 92.207 of the federal HOME regulations.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 882.109, 92.102(b)(2), 92.2 and 882.109; and Sections 17920.3, 18007, 50079.5, 50101, 50105, 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including amendment of section and NOTE transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).
5. Amendment of section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
6. Amendment of subsection (a) filed 1-14-99; operative 2-13-99 (Register 99, No. 3).
7. Amendment filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

Article 2. Program Requirements

§ 8202. Supplementary Allocations for Entitlement Jurisdictions.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Section 92.102(a); Section 65580, Government Code; and Sections 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including amendment of section and NOTE transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).
5. Amendment of subsections (a)(1), (a)(2) and (b) and amendment of NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
6. Repealer filed 12-19-2001; operative 12-19-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 51).

§ 8203. Allocations for Model Programs.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.201(b)(2), 92.201(b)(3)(i) and 92.205(a); and Sections 50406(o), 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 8203 to section 8204 and new section filed 7-7-93; operative 7-7-93 (Register 93, No. 28).
2. Amendment of subsection (a), repealer of subsection (c) and amendment of NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
3. Repealer filed 12-19-2001; operative 12-19-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 51).

§ 8204. Eligible Applicant.

(a) In order to be eligible to apply for HOME funds, the applicant shall be a city or county, or a nonprofit corporation that has been certified as a CHDO by the Department pursuant to Section 8204.1.

(1) Cities and counties shall comply with the following:

(A) A city may only apply for funding for activities within its incorporated boundaries;

(B) A county may only apply for funding for activities within its unincorporated areas;

(C) A city or county applicant shall not have been designated as a participating jurisdiction, or included as part of an urban county, as defined in 24 CFR Section 570.3(ee), or included as part of a consortium, as defined in 24 CFR Section 92.101, for HOME funding for the federal fiscal year for which the NOFA is issued, and

(D) A city or county applicant must demonstrate to the Department's satisfaction that it has:

(i) staff available or has committed to hiring staff able to operate a local HOME program and oversee the work of an administrative subcontractor, if any;

(ii) resolved any audit finding(s), for prior Department, or federally funded housing or community development projects or programs to the satisfaction of the Department or federal agency by which the finding was made,

(iii) provided a self certification that it is not debarred or suspended from participation in federal or state housing or community development projects or programs, and

(iv) provided documentation satisfactory to the Department that it is in compliance with the submittal requirements of OMB A-133, Single Audit Report.

(2) A CHDO applicant shall comply with the following:

(A) have received the Department's certification to serve the jurisdiction in which the project is located;

(B) be eligible to apply for activities located in cities and counties which have not been designated as participating jurisdictions by HUD, or included as part of an urban county, as defined in 24 CFR Section 570.3(ee), or included as part of a consortium, as defined in 24 CFR Section 92.101, for HOME funding from the federal fiscal year for which the NOFA was issued; and

(C) The CHDO must demonstrate to the Department's satisfaction that it has:

(i) resolved any audit findings for prior Department or federally funded housing or community development projects or programs to the satisfaction of the Department or federal agency by which the finding was made,

(ii) provided a self certification that it is not debarred or suspended from participation in federal or state housing or community development projects or programs, and

(iii) provided documentation satisfactory to the Department that it is in compliance with the submittal requirements of OMB A-133, Single Audit Report; and

(D) provide evidence that the CHDO fulfills at least one of the following roles:

(i) sole project developer;

(ii) sole owner; or

(iii) sole general partner.

(b) An applicant with one or more current State HOME contracts for which the expenditure deadline established in the contract(s) has not yet passed shall be ineligible to apply for a program activity unless the applicant has expended at least fifty percent (50%) of the aggregate total of program funds originally awarded.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.201(b)(3)(i), 92.300(b), 92.504(a) and 570.3; and Sections 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 3–2–93 as an emergency; operative 3–2–93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6–30–93 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 3–2–93 order including renumbering and amendment of former section 8203 to section 8204 with amendment of NOTE and renumbering of former section 8204 to section 8205 transmitted to OAL 5–26–93 and filed 7–7–93 (Register 93, No. 28).

5. Amendment of section and NOTE filed 3–14–97; operative 3–14–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).

6. Amendment of subsection (a), repealer of subsection (a)(2), subsection renumbering, and renumbering and amendment of former subsections (b)–(b)(5) to new section 8204.1 filed 1–22–2001; operative 1–22–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

7. Amendment filed 9–9–2004; operative 9–9–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

8. Amendment of subsection (a)(2)(B), new subsection (b) and amendment of NOTE filed 8–12–2005; operative 9–11–2005 (Register 2005, No. 32).

9. Amendment of subsections (a)(1)(D)(iv), (a)(2)(B) and (a)(2)(C)(iii) filed 12–10–2007; operative 12–10–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8204.1. CHDO Certification.

(a) Applicants for CHDO certification may apply to the Department at any time.

(1) Within 15 business days of receipt of a nonprofit corporation's application for certification as a CHDO, the Department shall provide the applicant with written notice indicating whether the application is incomplete and, if so, what specific information is required for it to be considered complete.

(2) Within 45 business days of receiving all of the documentation requested in subsection (b) below, the Department shall provide the applicant with either written notice of certification identifying the geographic area for which the CHDO is being certified or written notice indicating why the CHDO application is being denied.

(3) A survey conducted by the Department pursuant to Government Code Section 15376 of the Department's performance determined the minimum, median and maximum elapsed time between receipt of a CHDO application and reaching a final decision; the results are as follows:

Minimum:	15 calendar days
Median:	30 calendar days
Maximum:	45 calendar days

(4) Applicants that are not certified by the final filing date published in the NOFA shall not be considered eligible to apply for funding as a CHDO.

(b) To apply for certification or recertification, an applicant shall submit, at a minimum, the following documentation to the Department:

(1) a copy of the Internal Revenue Service exemption letter and a letter of good standing from the California Franchise Tax Board that is dated no more than 12 months prior to the date the applicant applies for certification;

(2) a copy of the corporation's financial statement that is dated no more than 12 months prior to the date the applicant applies for certification;

(3) a copy of the corporation's bylaws, which describes, at a minimum, the following:

(A) the governing board composition,

(B) the fulfillment and maintenance of the 1/3 representation requirement contained in 24 CFR Section 92.2,

(C) a description of the manner in which board members are selected,

(D) evidence that the purposes of the organization comply with 24 CFR Section 92.2, and

(E) relationships to for–profit individuals or entities, if any, as they relate to the governance of the corporation.

(4) a copy of the corporation's articles of incorporation and any amendments;

(5) a Certificate of Status, Domestic Corporation, from the California Secretary of State that is dated no more than 12 months prior to the date of application for certification;

(6) a description of the formal process used to solicit advice from low–income program beneficiaries in decisions regarding design, siting, development, and management of affordable housing;

(7) a plan describing the program of tenant participation in management decisions for rental projects and the proposed fair lease and grievance procedure pursuant to 24 CFR Section 92.303;

(8) a description of the applicant's capacity for carrying out activities with HOME funds or a plan to gain such capacity, including but not limited to

(A) a list of current staff members responsible for any proposed HOME activity and resumes;

(B) if staff does not have such capacity, a commitment to hire experienced staff or a commitment to hire an experienced consultant and a plan to train staff;

(9) a description of the applicant's history of serving the community within which housing to be assisted with HOME funds is to be located or if the applicant has been in existence less than one year, a description of the applicant's parent organization and its history of serving the community;

(10) a list of the names of board members, their occupations, the names of their employers and any appointment or election to a public body, and an indication of which members fulfill the requirements of the 1/3 representation contained in 24 CFR Section 92.2;

(11) a copy of the corporation's business or strategic plan adopted by the Board;

(A) shall be submitted if any of the following applies to the organization:

(i) this is the first certification request with the State HOME Program.

(ii) there has been five years or more since the last certification has expired

(iii) it has been incorporated less than 10 years.

(B) the Business plan shall cover at a minimum:

(i) Business Description including, background, purpose and who, what, where, when and how the organizations plans to operate;

(ii) Market Evaluation and Strategy including customers, geographical area, competition, and environment in which the organization plans to operate;

(iii) Organizational Plan covering the corporations structure, status, staffing plan, policies and procedures for delivery of program, management controls, physical space and equipment needs;

(iv) Financial Plan detailing projected capital budgets for equipment, construction, development projects or for loan funds; start–up and cash flow; and

(v) Risk Analysis of potential financial, political, regulatory, unknown and crucial threats.

(12) the geographical areas served by the corporation, and evidencing compliance with Section 8204(a)(2)(B) in either the Articles of Incorporation, Resolution or Charter, or Bylaws;

(13) a geographic area map served by the applicant; evidencing compliance with Section 8204(a)(2)(B); and

(14) a self–certification that the applicant is not on the Federal List of Excluded, Debarred, or Suspended Contractors with supporting documentation.

(c) Upon receipt of all the documents listed in subsection (b), the Department shall conduct an analysis of the documents to determine if the applicant meets the definition of a CHDO as set forth in 24 CFR Section 92.2. If the Department determines that the applicant meets the definition of a CHDO, and meets the other requirements of this Section, the Department shall issue a letter of certification to the applicant, which shall be submitted as part of any CHDO application considered for funding.

(d) In order to demonstrate its capacity for carrying out activities assisted with HOME funds, as required by 24 CFR Section 92.2, an applicant shall meet the requirements of paragraph (1) and either paragraph (2) or (3) below.

(1) The applicant shall have resolved any audit findings, for prior Department, or federally–funded housing or community development proj-

ects or programs to the satisfaction of the Department or federal agency by which the finding was made.

(2) The applicant has staff that possesses the core competencies listed herein, and has a staffing plan specifying the number of full-time staff persons and percentages of these persons' working hours which are allotted to housing projects. The required core housing development competencies are the knowledge, skills and ability to:

(A) Conduct market/needs analyses and conceptual project design;

(B) Choose and negotiate purchase of a suitable site;

(C) Select and work with architects and other consultants;

(D) Understand and comply with local planning, zoning and building requirements;

(E) Create a development pro forma and operating budget;

(F) Set rents or sales prices;

(G) Identify financing sources and apply for financing;

(H) Comply with other lender requirements;

(I) Deal with community concerns;

(J) Comply with CEQA and NEPA requirements;

(K) Choose and work with construction contractors;

(L) Manage the construction process;

(M) Choose and work with a management agent;

(N) Successfully market a project; and

(O) Comply with HOME program requirements, construction close-out and long-term obligations.

(3) The applicant has an executed contract with a consultant experienced in housing development to commence not later than six months of the date of certification or recertification and requiring the training to be completed not later than two years from the date of certification or recertification, and which shall identify the names and titles of persons being trained and the specific core competencies in which they are being trained.

(4) A CHDO certified pursuant to paragraph (3) above shall be required to submit a status report on the process of such training on the first and second anniversaries of its certification.

(5) A CHDO shall only be permitted to achieve certification once pursuant to paragraph (3) above. Thereafter, all applications for recertification shall be subject to the requirements of paragraph (2).

(e) In order to demonstrate that the applicant, or its parent, has a history of serving the community within which housing to be assisted with HOME funds is to be located, as required by 24 CFR Section 92.2, an applicant, or its parent, shall have provided a housing-related service to the community for at least one year prior to application for certification. A housing-related service is one which has provided a benefit to a tenant or homeowner in the community. Solely engaging in predevelopment activities for a housing project shall not satisfy the demonstration required by this subsection.

(f) A nonprofit corporation created, formed, or under the control of another State-certified CHDO and that proposes to serve the same community as the existing CHDO shall not be eligible to apply for CHDO certification. In addition, a non-CHDO, non-profit parent organization may not have more than one subsidiary or affiliate that is certified as a CHDO by the State;

(g) When submitting an Application in response to the Department's NOFA process, a CHDO shall submit a self certification confirming that the organization continues to maintain compliance with all the State requirements for CHDO certification. The Department may require documentation to verify certification compliance.

(h) A CHDO certification shall remain in effect not more than three years from the date of the letter of certification issued by the Department provided that the CHDO continues to meet all requirements.

(i) The Department shall monitor all CHDOs throughout the term of the certification to ensure continued compliance as a CHDO. If the Department determines that an organization no longer complies with the requirements of this Section, the Department may declare the organization to be ineligible to apply for State HOME funds, and the Department may revoke the organization's CHDO certification.

(j) A CHDO that serves a county in which there is no other CHDO, and that does not apply for State HOME funds during any six consecutive years of certification, shall be deemed ineligible for certification for three years from the end of the sixth year of certification. Any other CHDO that does not apply for State HOME funds during a three-year certification period shall be deemed ineligible for certification for three years from the end of the three-year certification period, unless that CHDO has developed, owned or sponsored housing within the past three years.

(k) In order to be considered for certification or recertification prior to the NOFA deadline, a CHDO applicant shall submit its CHDO application no later than 60 days prior to the NOFA application deadline.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.201(b)(3)(i), 92.300(b) and 92.504(a); and Sections 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 8204.1, subsections (b)–(b)(5) to new section 8204.1 filed 1-22-2001; operative 1-22-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
2. Amendment filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

§ 8205. Use of Funds.

(a) Eligible activities for use of HOME funds shall be one or more of the following:

(1) first-time homebuyer programs, as defined in Section 8201;

(2) owner-occupied rehabilitation programs, as defined in Section 8201;

(3) rental rehabilitation and/or acquisition programs, as defined in Section 8201;

(4) tenant-based rental assistance programs, as defined in Section 8201;

(5) rental new construction projects, as defined in Section 8201;

(6) rental rehabilitation and/or acquisition projects, as defined in Section 8201;

(7) first-time homebuyer projects, as defined in Section 8201.

(b) HOME funds shall only be used to pay for eligible costs as described in 24 CFR Sections 92.206 through 92.209.

(1) All HOME assistance shall be in the form of loans, except for funds used for the activities listed in subsection (2).

(A) Loans financed from the CHDO set-aside pursuant 24 CFR Section 92.300(a)(1) shall comply with the financing provisions as required for the following activities:

(i) for land acquisition for first-time homebuyer projects shall bear zero interest.

(ii) Loans to first-time homebuyers shall bear a simple interest rate of 3 percent per annum, computed from the date the Deed of Trust is recorded on the property. Interest and payments shall be deferred for the term of the loan. Commencing on the 11th anniversary of the recordation date, an amount equal to 10 percent of the accrued interest shall be forgiven each year, so that on the 20th anniversary of the recordation date, all interest will have been forgiven if the borrower is in compliance with the requirements stated in the Department's loan documents.

(iii) Loans to rental projects shall bear a simple interest rate of 3 percent, except for projects receiving tax credits, for which the interest rate may be either 3 percent or the long-term applicable federal rate, as defined in 26 USC Section 1274(d), and as published in the monthly revenue ruling letter published by the Internal Revenue Service. Interest shall be paid pursuant to Section 8314;

(B) Loans financed from CHDO proceeds pursuant to Section 8206.1(c) shall comply with the following financing provisions as required for the following activities:

(i) Loans assisting first-time homebuyers and homeowners whose homes are being rehabilitated shall bear simple interest rates ranging from 0 to 3 percent per annum, and interest and payments shall be deferred for the term of the loan. The CHDO may forgive some or all of the accrued interest.

(ii) Loans made by CHDOs for rental projects shall bear a simple interest rate of 3 percent, except for projects receiving tax credits, for which

the interest rate may be either 3 percent or the long-term applicable federal rate, as defined in 26 USC Section 1274(d), and as published in the monthly revenue ruling letter published by the Internal Revenue Service. If a layering analysis supports a deferred loan, the State Recipient is exempt from Section 8314.

(C) Loans made by State Recipients shall comply with the financing provisions as required for the following activities:

(i) Loans assisting first-time homebuyers and homeowners whose homes are being rehabilitated shall bear simple interest rates ranging from 0 to 3 percent per annum, and interest and payments shall be deferred for the term of the loan. The State Recipient may forgive some or all of the accrued interest.

(ii) Loans made by State Recipients for rental projects shall bear simple interest rates of 3 percent, except for projects receiving tax credits, for which the interest rate may be either 3 percent or the long-term applicable federal rate, as defined in 26 USC Section 1274(d), and as published in the monthly revenue ruling letter published by the Internal Revenue Service. If a layering analysis supports a deferred loan, the State Recipient is exempt from Section 8314.

(2) Funds used for the following shall be provided in the form of a grant:

(A) funds used for tenant based rental assistance, as described in 24 CFR Section 92.209,

(B) relocation payments,

(C) funds necessary to provide the difference between work that is customarily performed and the minimally-required work necessary, using the least cost alternative, to comply with federal lead-based paint regulations in HOME-funded rehabilitation of owner-occupied housing or acquisition of housing for first-time homebuyers, and

(D) funds used for administrative costs eligible pursuant to 24 CFR Sections 92.206(d)(6), 92.206(f)(2), 92.207 and 92.208.

(3) HOME funds may be used to pay the actual costs of administering a local program as described in 24 CFR Section 92.207. The amount of HOME funds used by a State Recipient or CHDO for administrative expenses shall be limited to the amount specified in the NOFA issued by the Department pursuant to Section 8210.

(4) Costs must be necessary and must be consistent with the lowest reasonable cost taking into consideration a project's scope and area.

(5) If a State Recipient or a CHDO has received a grant for administrative costs described in 24 CFR Section 92.206(d)(6) or 92.206(f)(2), the State Recipient or CHDO shall not charge, nor shall it permit its employees or contractors to charge, any fees, or otherwise seek reimbursement for those costs.

(6) In the event that a project is not completed, or a project completion report is not submitted to the Department for the project, a State Recipient shall repay funds granted for relocation payments, lead-based paint work, and administrative costs pursuant to 24 CFR Sections 92.206(d)(6) and 92.206(f)(2), and a CHDO shall repay funds granted for relocation payments and lead-based paint work.

(c) A CHDO may request that up to ten percent of the CHDO's project-specific funds be made available for loans pursuant to 24 CFR Section 92.301.

(d) Pursuant to 24 CFR Section 92.208, up to five percent of the total amount of funds made available by HUD to the Department for any funding cycle may be used to pay for the operating expenses of CHDOs with which the Department has entered into standard agreements.

(e) HOME funds shall not be used to pay for prohibited activities or costs described in 24 CFR Section 92.214.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.206, 92.301, 92.353 and 92.355; 42 USC 12742; 24 CFR part 39; and 24 CFR part 40; and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8204 to section 8205 with amendment of NOTE and renumbering of former section 8205 to section 8206 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).
5. Amendment of section heading, section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
6. Amendment of subsection (b)(1) and new subsections (b)(1)(A)-(D) and (b)(4)-(5) filed 12-19-2001; operative 12-19-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 51).
7. Amendment filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

§ 8206. Matching Contributions.

(a) Except as noted in subsections (a)(1), (a)(2), and (a)(4) below, State Recipients and CHDOs shall contribute matching funds as required in subsection (b).

(1) If the matching contribution requirements of 24 CFR Section 92.218 are waived or modified by Congress or are modified by HUD pursuant to 24 CFR Section 92.222, the Department shall waive or modify the matching contribution requirements of subsection (b) for funds affected by the federal action.

(2) If the Department identifies other eligible sources of match that can be used to meet part or all of the matching contribution requirements of 24 CFR Section 92.218, the Department shall modify the matching contribution requirements of subsection (b) to the extent possible for funds affected.

(3) Modified matching contribution requirements for each funding cycle as provided for in subsections (a)(1) and (a)(2) shall be provided in the NOFA issued by the Department pursuant to Section 8210 unless such matching requirements are waived or modified by HUD after issuance of a NOFA. In that case, the Department shall notify State Recipients and CHDOs of the modification of matching contribution requirements through written notice.

(4) HOME funds used for administrative and planning costs pursuant to 24 CFR Section 92.207 and CHDO operating expenses pursuant to 24 CFR Section 92.208 shall not be required to be matched.

(b) State Recipients and CHDOs shall provide matching contributions as required by 24 CFR Sections 92.218, 92.219, 92.220, and 92.221.

(c) Documentation that the matching contribution requirements have been met shall be subject to verification by the Department.

(d) If matching contributions are provided in the form of affordable housing that is not HOME-assisted pursuant to 24 CFR Section 92.219(b), the State Recipient or CHDO shall establish a procedure to monitor these projects and ensure continued compliance with the requirements contained in 24 CFR Section 92.219(b).

(e) Contributions which shall not be considered as HOME matching contributions are those described in 24 CFR Section 92.220(b).

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.218, 92.219, 92.220, 92.221, 92.222, 92.252 and 92.254; and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8206 to section 8207 with amendment of NOTE.

and renumbering of former section 8207 to section 8208 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).

5. Change without regulatory effect amending subsections (e)(7) and (d) filed 10-21-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 43).

6. Repealer of former section 8206 and renumbering of former section 8207 to new section 8206, including amendment of section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).

7. Amendment filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

§ 8206.1. Repayment of HOME Funds, Program Income, Proceeds from the Investment of HOME Funds, and Recaptured Funds.

(a) Repayment of HOME funds and matching contributions, program income, proceeds from the investment of HOME funds, and recaptured funds are subject to the requirements of 24 CFR Sections 92.252, 92.254, 92.300 and 92.503 and this Section. HOME funds invested in housing that is not completed or rental housing that does not comply with the affordability requirements for the required period shall be repaid to the Department.

(b) Except as otherwise provided in this subsection (b), all program income and recaptured funds shall be remitted directly to the Department for deposit into the Department's local account.

(1) If requested by the State Recipient, the Department shall allow program income and recaptured funds to be deposited into the State Recipient's local account, subject to the requirements of 24 CFR Sections 92.502(c)(3) and 92.503(a)(1).

(2) If requested by a CHDO, the Department shall allow recaptured funds and proceeds from the investment of HOME funds to be retained by a CHDO that meets the requirements of subsection (c) of this section.

(3) Where HOME funds are invested in housing to assist acquisition by a first-time homebuyer who sells the home unit or repays the loan prior to the end of the required affordability period, the HOME funds repaid to the CHDO or State Recipient shall be recaptured. exceptions may be requested to use resale for limited equity forms of ownership like cooperatives and community land trust.

(4) State Recipients and CHDOs that retain program income, proceeds from the investment of HOME funds, and recaptured funds shall submit quarterly reports and an annual report documenting all local account activity. Failure to submit the required reports shall result in a negative performance rating in future applications from funding. Continued failure to comply with all federal and state requirements for use of these funds shall result in a termination of the agreement for the State Recipient or CHDO to retain such funds.

(c) The Department may permit a CHDO to retain collections if it demonstrates to the satisfaction of the Department all of the following:

(1) adherence to program requirements and deadlines identified in Sections 8216 and 8217 in the last four preceding State HOME contracts including CHDO certification and application requirements identified in Sections 8204 and 8204.1 and federal overlays;

(2) successful completion of at least six housing projects with a total of at least 100 units;

(3) no unresolved monitoring findings on completed HOME projects; and

(4) service to the community, as defined by Section 8204.1(e), of at least ten years;

(d) A CHDO that meets the requirements of subsection (c) shall be subject to the requirements of 24 CFR Section 92.502(c)(3), but shall only use proceeds from the investment of HOME funds for eligible activities pursuant to 24 CFR Sections 92.205 and 92.206. A CHDO that has been permitted to retain proceeds in one HOME standard agreement shall be permitted to retain proceeds in all future contracts. If at any time a CHDO fails to demonstrate compliance with the requirements of subsection (c), the Department may require the CHDO to remit all future collections to the Department.

(e) When a CHDO applies for a rental housing development and the Department has approved the CHDO to retain proceeds in accordance with Section 8206 .1(b)(2), the rental housing development shall:

(1) be underwritten by the Department in compliance with Section 8212.2;

(2) comply with 24 CFR part 92 which includes project requirements specified in 24 CFR Sections 92.250, 92.251, 92.252, and 92.253; and

(3) be inspected by the Department pursuant to 24 CFR Section 92.504(d)(1).

(f) In the event of a breach or violation of Section 8206.1(e)(1) and (2) by the CHDO and the breach or violation is not cured to the satisfaction of the Department, the Department may declare a default and may seek all available legal remedies including the following:

(1) Collect all rents and income in connection with the operation of the development;

(2) Take possession of the development in accordance with Section 8206.1(e)(1) and (2);

(3) Apply to any court, State or federal, for specific performance of this Agreement or for the appointment of a receiver to take over and operate the development;

(4) Accelerate all amounts, including outstanding principal and interest due. Declare a default and initiate a foreclosure in accordance with the provisions of the HOME Deed of Trust and State law regarding foreclosures.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.254, 92.300, 92.502(c)(3), 92.503 and 92.503(a)(1); and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

§ 8207. Amount of HOME Assistance.

(a) The amount of HOME funds invested in a project:

(1) shall not exceed the per unit dollar limits established by HUD under 24 CFR Section 92.250; and

(2) is limited to the amount necessary, when considered with other financing and assistance of the project, to accomplish the following:

(A) enable the project as proposed to be developed and to operate in compliance with all HOME requirements;

(B) for first-time homebuyer projects and programs, allow homebuyers to purchase homes utilizing loans from primary lenders. (Notice: First-time homebuyers shall be required to obtain financing from primary lenders in addition to HOME financing.) Loans from primary lenders shall comply with the following requirements:

(i) the loan must have a minimum loan term of 30 years;

(ii) the loan must be fully amortizing and have a fixed interest rate that does not exceed the current market rate, as established by an index identified in the NOFA. No temporary interest rate buy-downs are permitted;

(b) A recipient of a conditional reservation for a rental project shall be required to submit an updated sources and uses and an operating budget within 15 days of obtaining permanent financing commitments and at least 45 days prior to the date of anticipated construction or acquisition loan closing. The Department shall conduct a feasibility analysis and subsidy layering analysis. If the project is determined to be feasible, a final funding amount will be set based upon the subsidy layering analysis.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.205(c) and 92.250; and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8208 to section 8209 with amendment of NOTE

and renumbering of former section 8209 to section 8210 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).

5. Renumbering of former section 8207 to new section 8206 and renumbering of former section 8209 to new section 8207, including amendment of section heading, section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).

6. Amendment of section heading and section filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

7. Amendment of subsections (a)(2) and (a)(2)(B)(i) filed 12-10-2007; operative 12-10-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8207.1. Homebuyer Education Requirements.

(a) For purposes of this section, "homebuyer education" means a specific course of instruction, designed pursuant to this section, to educate first-time homebuyers regarding various aspects of purchasing and maintaining a home.

(b) Homebuyer education shall be provided to all homebuyers receiving HOME funds for mortgage assistance. The state recipient or CHDO shall determine the format best suited for providing homebuyer education to its homebuyers (for example, classroom instruction, one-on-one counseling, written materials, internet).

(c) The homebuyer education curriculum shall be described in the applicant's program or project guidelines, shall be subject to Department review and approval, and shall at a minimum address the following topics:

(1) preparing for homeownership;

(2) available financing and credit analysis;

(3) loan closing and homebuyer responsibilities;

(4) home maintenance and budgeting for mortgage payments and other expenses;

(5) The impact of refinancing on the long-term financial health of the homebuyer.

(d) a certificate of successful completion of homebuyer education shall be issued to each prospective homeowner and a copy retained by the State Recipient or CHDO for inspection and review by the Department on request. This information shall be retained for the period of time set forth in 24 C.F.R. 92.508(c).

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.206 and 92.508; and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 12-10-2007; operative 12-10-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8208. Affordability Requirements.

(a) In order to qualify under these regulations for funding as an affordable rental housing project, the project shall meet the periods of affordability specified in the following table, and shall comply with the other requirements of 24 CFR Sections 92.252, 92.255 and 92.258.

Amount of HOME Assistance	*Activity Assisted*	*Minimum Period of Affordability in Years*
Less than 15,000 per unit	Rehabilitation of existing rental housing	10 years
$15,000 to $40,000	Rehabilitation of existing rental housing	15 years
More than $40,000	Rehabilitation of existing rental housing	20 years
Any dollar amount	Acquisition and Rehabilitation, Acquisition and or New construction of rental housing	55 years

(b) Rent levels shall be restricted for the period of affordability set forth above at the lesser of the rent level permitted pursuant to 24 C.F.R. Section 92.252 or another rent level expressed as a percentage of area median income approved by the Department. Exceptions to this requirement may be granted for units receiving HUD Section 8 or other similar rental assistance, or where the project's continued fiscal integrity is in jeopardy due to factors that could not be reasonably foreseen.

(c) Homeownership units assisted with HOME funds shall meet the requirements of 24 CFR sections 92.254, 92.255 and 92.258. Except for owner-occupied units being rehabilitated with HOME funds, all assistance shall be made available only to first-time homebuyers.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.252, 92.254, 92.255, 92.257, 92.258, 201.10, 203.18, 234.27, 813.102 and 888.111; Section 6932, Government Code; and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8209 to section 8210 with amendment of NOTE and renumbering of former section 8210 to section 8211 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).

5. Repealer of former section 8208 and renumbering of former section 8210 to new section 8208, including amendment of section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).

6. Amendment of subsection (a) filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

7. New subsection (b) and subsection relettering filed 12-10-2007; operative 12-10-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8209. Tenant-Based Rental Assistance.

Notwithstanding the requirements of Section 8204, HOME-funded tenant-based rental assistance and security deposit assistance may be used to assist tenants to reside in an eligible jurisdiction within the county where the tenant-based rental assistance funds were awarded. The state recipient shall comply with the provisions of 24 CFR section 92.209. In all cases, assistance shall be restricted to the boundaries of the county where the funds were awarded and shall continue to be the responsibility of the state recipient.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR part 882 and 882.209(a)(7); 42 USC 12742; and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8210 to section 8211 with amendment of NOTE and renumbering of former section 8211 to section 8212 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).

5. Change without regulatory effect deleting subsection (a)(2) filed 10-21-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 43).

6. Renumbering of former section 8209 to new section 8207, and renumbering of former section 8211 to new section 8209, including amendment of section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).

7. Amendment filed 12-10-2007; operative 12-10-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

Article 3. Application for Funding Procedures

§ 8210. Application Process.

(a) Within a funding cycle, the Department shall issue one or more NOFAs.

(b) Eligible applicants, defined as those that comply with the provisions in Section 8204, may submit only one application in response to a NOFA.

(c) Applications from CHDOs shall propose only activities that are eligible to qualify as CHDO set–aside activities pursuant to 24 CFR Section 92.300(a).

(d) The NOFA shall specify, among other things, the maximum amount of funds available to a State Recipient or CHDO under the NOFA, the activities elibile pursuant to the NOFA, the time frame for submittal of applications, the application requirements pursuant to Section 8211, the allocation of rating points pursuant to Section 8212, the matching contribution requirements pursuant to Section 8206, the value of voluntary labor as determined by HUD pursuant to 24 CFR Section 92.220(a)(8), any prohibitions on uses of funds, the availability of administrative funds, and the general terms and conditions of funding allocations.

(e) The Department shall only consider applications that are complete, as defined by Section 8211(b), and contain all the information required by Section 8211(c).

(f) If funds are disencumbered pursuant to Section 8218, made available due to an unexecuted standard agreement or made available by HUD pursuant to 24 CFR Section 92.451, the Department may make such funds available to (1) the next highest–ranked unfunded or partially–funded application from the most recent award of funds if the applicant can demonstrate that a proposed activity can be successfully implemented and executed, or (2) through the next published NOFA pursuant to subsection (a).

(g) In order to comply with any set–aside established by HUD or the Department, or special allocation made by HUD, the Department may do one or more of the following:

(1) issue a special NOFA;

(2) specify in each NOFA the reservation of a portion of the funds; and

(3) specify in each NOFA any waivers to requirements granted by HUD in connection with the funds.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 570.3(ee) and 92.451; and Sections 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. New section filed 7–2–92 as an emergency; operative 7–2–92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10–30–92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–23–92 as an emergency; operative 10–30–92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2–23–93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3–2–93 as an emergency; operative 3–2–93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6–30–93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–2–93 order including renumbering and amendment of former section 8211 to section 8212 with amendment of NOTE and renumbering of former section 8212 to section 8213 transmitted to OAL 5–26–93 and filed 7–7–93 (Register 93, No. 28).
5. Renumbering of former section 8210 to new section 8208, and renumbering of former section 8212 to new section 8210, including amendment of section and NOTE filed 3–14–97; operative 3–14–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
6. Amendment filed 9–9–2004; operative 9–9–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).
7. Amendment of subsection (e) and amendment of NOTE filed 8–12–2005; operative 9–11–2005 (Register 2005, No. 32).
8. Amendment of subsections (c)–(d) and amendment of NOTE filed 12–10–2007; operative 12–10–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8211. Application Requirements/Form.

(a) Application shall be made on a form made available by the Department that requests the information required by these regulations.

(b) An application shall be deemed complete when the Department is able to determine from the information provided whether the application is eligible for rating pursuant to the requirements of Section 8212(a).

(c) All applications shall be required to contain the following:

(1) identification of the applicant;

(2) information on the proposed activity(ies);

(3) information adequate to determine whether the applicant is eligible, in accordance with Sections 8204 and 8204.1;

(4) information adequate to determine whether the activity is eligible, in accordance with Sections 8205 and 8210(c);

(5) information indicating whether the applicant or any member of its program team or project team has any unresolved audit findings or has been suspended or debarred from participation in any federal or State housing or community development program;

(6) information on any pending litigation affecting the applicant's ability to carry out the activity;

(7) identification of any administrative subcontractor;

(8) a certification that the applicant will comply with State and federal requirements;

(9) a resolution by the governing board of the applicant authorizing the application and the execution of all required documents;

(10) information adequate to determine the experience of the applicant with other federal, State or local housing or community development programs;

(11) identification of all members of the program team or project team;

(12) information on sources and amounts of matching contributions, in accordance with Section 8206, and sources and amounts of leverage, as defined in Section 8201.

(d) In addition to the information required by subsection (c), applications proposing programs shall be required to contain the following:

(1) information on which member of the program team is responsible for accomplishing key administrative tasks;

(2) information on the projected administrative budget and sources of funds to pay for the costs of administering the program;

(3) information adequate to determine the experience of the applicant in administering a program to assist the same type of activity proposed in the application;

(4) a description of how the applicant proposes to use HOME funds;

(5) a copy of the guidelines to be used by the applicant for administering the program in compliance with State and federal requirements;

(6) information adequate to determine the feasibility of the program;

(e) In addition to the information required by subsection (c), applications proposing projects shall be required to contain the following:

(1) a description of the roles, financial structure and all legal relationships of the applicant, developer, owner(s), managing general partner, administrative subcontractor and all other partners in the construction project;

(2) information adequate to determine the experience of the applicant, developer, owner and managing general partner in developing the same type of subsidized project as proposed by the application;

(3) information adequate to determine the readiness of the project to proceed;

(4) information adequate to determine the feasibility of the proposed project.

i. For applications proposing rental projects, adequate information shall include the following:

(A) information adequate to determine the financial feasibility of the project in accordance with Section 8212(d)(3) and the Uniform Multifamily Regulations (commencing with Section 8300) and state and federal HOME requirements;

(B) for applications proposing rental new construction projects, a market study, property appraisal, and a Phase I/Phase II environmental site assessment shall be submitted as requested by the Department.

(a) The market study must demonstrate whether sufficient demand exists in the market area to support the proposed project at the projected rents.

(b) The property appraisal must determine the value of the land upon which the proposed project will be developed. If the land is leased, the appraisal must include the fair market value of the lease payments.

(c) The Phase I/Phase II environmental site assessment must demonstrate whether the property is free from severe adverse environmental conditions.

(C) For applications proposing rental rehabilitation and/or acquisition projects, a market study, property appraisal, and asbestos and mold assessments shall be submitted as requested by the Department. In addition, if an application proposes rehabilitation and/or acquisition of a building constructed prior to January 1, 1978, a lead-based paint assessment shall be submitted.

(a) The market study must demonstrate whether sufficient demand exists in the market area to support the proposed project at the projected rents.

(b) The property appraisal must determine the value of the existing project. If the land is leased, the appraisal must include the fair market value of the lease payments.

(c) The asbestos, mold, and lead-based paint assessments must demonstrate whether the project is free from severe adverse environmental conditions.

ii. For applications proposing first-time homebuyer projects, adequate information shall include the following:

(A) information adequate to determine the ability of the project to meet federal and State HOME requirements, including a copy of the guidelines to be used by the applicant for administering the project in compliance with State and federal requirements;

(B) for applications proposing first-time homebuyer new construction projects, an analysis of comparable properties in the market area, a property appraisal, and a Phase I/Phase II environmental site assessment shall be submitted as requested by the Department.

(a) The analysis of comparable properties must demonstrate whether the project's proposed home sales prices are supported by the market.

(b) The property appraisal must determine the value of the land upon which the proposed project will be developed. If the land is leased, the appraisal must include the fair market value of the lease payments.

(c) The Phase I/Phase II environmental site assessment must demonstrate whether the property is free from severe adverse environmental conditions.

(C) For applications proposing first-time homebuyer rehabilitation projects, an analysis of comparable properties in the market area, a property appraisal, and asbestos and mold assessments shall be submitted as requested by the Department. In addition, if an application proposes to acquire or rehabilitate a building constructed prior to January 1, 1978, a lead-based paint assessment shall be submitted.

(a) The analysis of comparable properties must demonstrate whether the project's proposed home sales prices are supported by the market.

(b) The property appraisal must determine the value of the existing project. If the land is leased, the appraisal must include the fair market value of the lease payments.

(c) The asbestos, mold, and lead-based paint assessments must demonstrate whether the project is free from severe adverse environmental conditions.

iii. Any document prepared pursuant to subsections (i)(B) and (C) or (ii)(B) and (C) shall be prepared by an individual or firm which:

(A) has the appropriate license, when deemed necessary by the Department, and knowledge and experience necessary to competently prepare the document;

(B) is aware of, understands, and correctly employs those recognized methods and techniques that are necessary to produce a credible and complete document;

(C) communicates each analysis, opinion and conclusion in a manner that is not misleading as to the true market needs for low-income residential property, and the value and condition of the subject property; and

(D) is an independent third party having no identity of interest with the applicant, the partners of the applicant, the intended partners of the applicant, or with the general contractor.

(5) if applicant is a CHDO, the procedures to ensure the CHDO's effective project control of activities assisted with HOME funds pursuant to 24 CFR Section 92.300(a)(1).

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.1, 92.201, 92.203, 92.205, 92.206, 92.209, 92.214(a), 92.252, 92.254, 92.300(a)(1), 92.351, 92.352, 92.355 and 92.500; Section 65588, Government Code; and Sections 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8212 to section 8213 with amendment of NOTE and renumbering of former section 8213 to section 8214 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).
5. Change without regulatory effect amending form filed 3-28-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 13).
6. Renumbering of former section 8211 to new section 8209, and renumbering of former section 8213 to new section 8211, including amendment of section and NOTE and repealer of forms, filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
7. Amendment of subsection (a) filed 1-14-99; operative 2-13-99 (Register 99, No. 3).
8. Change without regulatory effect amending subsection (a) and repealing subsections (c)-(c)(2) filed 8-4-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 32).
9. Change without regulatory effect amending Form HOME-1 (incorporated by reference) and amending subsection (a) filed 7-28-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 30).
10. Change without regulatory effect amending subsection (a) and Form HOME-1 (incorporated by reference) filed 7-17-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 29).
11. Amendment of subsections (a) and (b), new subsections (c)-(e)(5) and amendment of NOTE filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).
12. Repealer of subsection (d)(7) filed 8-12-2005; operative 9-11-2005 (Register 2005, No. 32).
13. Amendment of subsection (e)(4), new subsections (e)(4)i.-(e)(4)iii.(D) and amendment of NOTE filed 12-10-2007; operative 12-10-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8212. Application Selection and Evaluation.

(a) Applications shall not be considered for funding unless the application is received within the time frames specified in the NOFA and demonstrates that all of the following conditions exist:

(1) the applicant is eligible pursuant to Section 8204 and 8204.1;

(2) the applicant proposes at least one eligible activity and the proposed uses for the HOME funds are eligible pursuant to Sections 8205 and 8210(c);

(3) the application is complete pursuant to Section 8211;

(4) the total amount of funds requested for both administration and activity-specific costs does not exceed the funding allocation limit which is stated in the NOFA and any allowed increase to this limit pursuant to Section 8217;

(5) if applicant is a CHDO, includes procedures ensuring the CHDO's effective project control of activities assisted with HOME funds pursuant to 24 CFR Section 92.300(a)(1); and

(6) for applications proposing projects involving acquisition of rental housing, acquisition and rehabilitation of rental housing, rehabilitation

of rental housing, construction of rental housing, or construction of housing for first-time homebuyers, the application demonstrates:

(A) that the project is financially feasible;

(B) site control is obtained pursuant to Section 8303;

(C) that there are no pending lawsuits that will prevent implementation of the project, as proposed;

(7) for applications proposing rental activities, the application contains documentation demonstrating that the project either complies with or is exempt from Article 34 of the California Constitution.

(b) Each application considered for funding shall first be rated using the criteria contained in this subsection and either the criteria in subsection (c) for program applications or the criteria listed in subsection (d) for project applications. Maximum possible rating points are listed after each criterion. Program applications, rental project applications, and first-time homebuyer project applications shall be rated and ranked separately. All applications shall be rated on the following:

(1) If the applicant is a city or county, the city or county's adopted housing element is in substantive compliance on the date applications are due to the Department as published in the NOFA. Newly formed cities that are not required to have an adopted housing element in compliance with general plan law shall receive full points in this category. If the applicant is a CHDO, the CHDO shall receive full points in this category. (50 points)

(2) Whether the application proposes activities within a jurisdiction whose formula allocation is being reallocated by the Department. (50 points)

(3) Whether the application proposes activities in a rural area. (50 points)

(4) Whether the application addresses one or more state objectives, as identified in the Consolidated Plan or the Annual Plan of the Consolidated Plan required by HUD. (150 points)

(c) Applications proposing programs shall be evaluated on these additional criteria:

(1) Capability to operate a HOME program, as demonstrated by the following: (up to 250 points).

(A) Performance of the applicant in meeting federal and State HOME requirements specified in this Section in previous State HOME contracts (up to 150 points). For this criterion only, all applicants initially will be credited with 150 points. Applications will then have points deducted for performance problems under previous State HOME contracts.

(i) Applicants who have in the last three contracts, from prior years as defined in the NOFA, not submitted required quarterly, annual, or project completion reports on time will lose up to 50 points; and

(ii) applicants who have not complied with monitoring and contractual requirements identified by the Department in the last 5 years as defined in the NOFA will lose up to 100 points.

(B) Prior experience of the applicant, as measured by implementation of HOME, and/or other local, State or federal affordable housing or community development programs during the most recent seven year period (up to 100 points):

(2) Community need based on one or more of the following factors: poverty level and overpayment for housing by low-income households by tenure (i.e., owner or renter), vacancy rates for housing in the jurisdiction by tenure, age of housing stock by tenure in the jurisdiction, numbers and percentages of substandard housing units, overcrowding of housing by tenure in the jurisdiction, and percentages of households that are below poverty level and who are overcrowded and living in substandard housing by tenure, as reflected in U.S. Census data; the numbers of low-income housing units at risk of conversion to market rate and those that actually have converted to market rate; and the ratio between the median home sales price and the median household income in the jurisdiction. The NOFA will identify the community need factors that apply to each activity and required source and who will be required to provide the source documentation. (up to 450 points)

(3) Feasibility of the program being applied for, as demonstrated by the degree to which the applicant's program guidelines reflect federal and State requirements, and the following: (up to 100 points)

(A) for first-time homebuyer programs, the number of units which have sold in the city or county over the preceding 12 month period at a price which is affordable, given the proposed HOME assistance, to lower income families;

(B) for rehabilitation of owner-occupied housing and rental housing programs, the number of overcrowded households by tenure and the age of the housing stock by tenure in the city or county, as reflected in U.S. Census data;

(C) for tenant-based rental assistance programs, the overpayment by lower-income renter households as reflected in U.S. Census data.

(d) Applications proposing projects will be evaluated on these additional criteria:

(1) Capability to develop a HOME-assisted project, as demonstrated by the following: (up to 450 points)

(A) Performance of the applicant, developer, owner, and managing general partner in meeting federal and State HOME requirements specified in this section in previous State HOME contracts; (up to 200 points). For this criterion only, all applications will initially will be credited with 200 points. Applications will then have points deducted for performance problems under previous State HOME contracts.

(i) applicants, developers, owners, and managing general partners who have in the most recent five-year period as defined in the NOFA, missed deadlines for projects specified in Section 8217 will lose up to 200 points; or applicants who have not submitted required monthly, quarterly program income, annual, or project completion reports on time will lose up to 50 points;

(ii) applicants, developers, owners, and managing general partners who have in the most recent five-year period as defined in the NOFA, made a material misrepresentation of any requirement or fact in an application, project report or other document submitted to the Department including but not limited to that which jeopardizes the Department's investment in a project or places the Department at risk of a monitoring finding will loose up to 200 points; and;

(iii) applicants, owners, and managing general partners who have not complied with monitoring requirements identified by the Department in the last five years will lose up to 100 points.

(B) Prior experience of the applicant, as measured by the implementation of HOME, and/or other local, State or federal affordable housing or community development projects during the most recent seven year period; (up to 50 points)

(C) Prior experience during the most recent five year period of the applicant, developer, owner, and managing general partner in developing the same type of subsidized project, in a manner consistent with the applicable funding source, as is proposed in the application. (up to 200 points)

(2) Community need based on one or more of the following factors: poverty level and overpayment for housing by low-income households and by tenure (i.e., owner or renter), vacancy rates for housing in the jurisdiction by tenure, age of housing stock by tenure in the jurisdiction, numbers and percentages of substandard housing units, overcrowding of housing by tenure in the jurisdiction, and percentages of households that are below poverty level and who are overcrowded and living in substandard housing by tenure, as reflected in U.S. Census data; the numbers of low-income housing units at risk of conversion to market rate and those that actually have converted to market rate and the ratio between the median home sales price and the median household income in the jurisdiction. The NOFA will identify the community need factors that apply to each activity and required source and who will be required to provide the source documentation. (up to 450 points)

(3) Feasibility of the project. For rental projects, feasibility will be as demonstrated by compliance with the Uniform Multifamily Regulations (commencing with Section 8300) and State and federal HOME requirements. For first-time homebuyer projects, the Department will evaluate the ability of the proposed project to meet State and federal HOME requirements. This will include but is not limited to an evaluation of the adequacy of the proposed development budget, the demonstrated market

for the project, including both the assisted units, and the non-assisted units, if any, and the affordability of the project, taking into account other available financing and HOME income requirements. Projects will also earn points based on having the greatest percent of assisted units. Point values for each factor will be identified in the NOFA. (up to 200 points)

(4) Readiness of the project, as demonstrated by the project development plan, status of local governmental approvals, design progress and financing commitments. Point values for each factor will be identified in the NOFA. (up to 300 points)

(5) Applications must receive at least 930 points in subsections (b) and (d) in order to be eligible for funding.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR part 91, and 24 CFR Sections 92.1, 92.50, 92.102, 92.204, 92.205, 92.206, 92.218, 92.250, 92.451 and 92.453; and Sections 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8213 to section 8214 with amendment of NOTE and renumbering of former section 8214 to section 8215 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).
5. Renumbering of former section 8212 to new section 8210, and renumbering of former section 8214 to new section 8212, including amendment of section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
6. Editorial correction of NOTE (Register 99, No. 3).
7. Amendment of subsections (b)(1)(B)(i)-(ii) filed 1-14-99; operative 2-13-99 (Register 99, No. 3).
8. Amendment of subsections (b)(3)-(4), new subsection (b)(5), amendment of subsections (b)(3)(B)(i) and (c)(4) and new subsection (c)(5) filed 12-19-2001; operative 12-19-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 51).
9. Amendment filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).
10. Amendment of subsections (a)(2), (b) and (c)(1)-(c)(1)(A)(i) and repealer of subsections (c)(4)-(5) filed 8-12-2005; operative 9-11-2005 (Register 2005, No. 32).
11. Amendment of subsections (b) and (d)(1)(A)-(d)(1)(A)(i), new subsection (d)(1)(A)(ii), subsection renumbering and amendment of newly designated subsection (d)(1)(A)(iii) and subsection (d)(3) filed 12-10-2007; operative 12-10-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8212.1. Allocation by Type of Activity and Rural Location.

(a) HOME funds will be divided into three separate allocations, one for rental projects, one for programs, and one for first-time homebuyer projects, with the percentage of each allocation based on the actual application demand expressed as a dollar amount requested in response to the initial NOFA of a funding cycle. However, under the initial NOFA, in no event shall the allocation for rental projects or the allocation for programs decline below 40 percent of the total funds available, and in no event shall the allocation for first-time homebuyer projects decline below 5 percent of the total funds available.

(b) If the minimum allocation is not fully subscribed for applications submitted under the initial NOFA, the remaining funds may be:

(i) transferred to another allocation;

(ii) made available under a subsequent NOFA; or

(iii) a combination of both (i) and (ii). Funds made available under a subsequent NOFA may be:

(A) made available on a first come-first served basis for a maximum of nine months from the application deadline under the initial NOFA, or

(B) for programs, may be divided equally among all eligible applicants requesting funds.

(c) In making its determination of how to allocate remaining funds pursuant to subsection (b), the Department shall, at a minimum, consider: (i) the amount of funds remaining; (ii) any remaining demands under a fully subscribed allocation; (iii) the potential future demand for program funds based on expenditure information on file with the Department; and (iv) the anticipated timing and amount of the initial NOFA for the next funding cycle.

(d) Rental projects will compete against rental projects, first-time homebuyer projects will compete against first-time homebuyer projects and programs will compete against programs.

(e) At least 50 percent of HOME funds awarded will be reserved for applicants qualifying for rural points, as stated in 8212(b)(3). However, if an insufficient number of applications that qualify for rural points are eligible for funding pursuant to 8212(c) and 8212(d)(5), the remaining rural funding reservation will be used to fund any non-rural applications that are eligible for funding.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Section 92.150; and Sections 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. New section filed 1-22-2001; operative 1-22-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
2. Amendment of section heading, designation of existing section as subsection (a) and new subsection (b) filed 12-19-2001; operative 12-19-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 51).
3. Amendment filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).
4. Amendment filed 8-12-2005; operative 9-11-2005 (Register 2005, No. 32).
5. Amendment filed 12-10-2007; operative 12-10-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8212.2. Uniform Multifamily Underwriting and Program Rules.

(a) The following sections of title 25, Division 1, Chapter 7, Subchapter 19 are hereby incorporated by reference into this subchapter and shall apply to rental housing developments. State Recipients may request a deviation from these rules on a case by case basis. Such a request will be evaluated to determine its impact on project feasibility. The Department at its sole discretion may or may not approve such a request.

(1) Section 8303. Site Control Requirements;

(2) Section 8304. Unit Standards;

(3) Section 8305. Tenant Selection;

(4) Section 8306. Tenant Recertification and Unit Mix Maintenance;

(5) Section 8307. Rental Agreement and Grievance Procedure;

(6) Section 8308. Operating Reserves.

(7) Section 8309. Replacement Reserves.

(8) Section 8310. Underwriting Standards;

(9) Section 8311. Limits on Development Costs;

(10) Section 8312. Developer Fee;

(11) Section 8313. Reserved.

(12) Section 8314. Use of Operating Cash Flow.

(13) Section 8315. Subordination Policy

(14) Section 8316. Leasehold Security

(b) For purposes of this section 7239 the definitions found in Section 8301 shall apply.

(c) In the event of a conflict or a perceived conflict between the provisions of this section and the other sections in this subchapter, the provisions of this section shall be construed to further the purposes of this subchapter.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: Sections 50896, 50896.1 and 50896.3, Health and Safety Code; 42 U.S.C. Section 5304(b); and 24 CFR Sections 92.252, 92.253, 92.303, 92.350, 92.351 and 92.504(c).

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8212.3. Deep Targeting Funds.

(a) For purposes of this section, the term "deep targeting funds" means additional funds awarded to rental projects to provide rents below the 50% of area median income rent level as set forth in the NOFA.

(b) In addition to the maximum award amount set forth in a NOFA, and subject to the provisions of this section, a NOFA may make deep target-

ing funds available for the purpose of reducing project rents through reduction or elimination of non-public agency debt that requires debt service payments.

(c) The NOFA shall establish the reduced rent levels required in order for a project to be eligible to receive deep targeting funds.

(d) As a result of the reduction in mandatory debt service, all rents shall be maintained at the area median income levels proposed in the HOME application for a minimum of 55 years pursuant to a HOME regulatory agreement or a regulatory agreement held by another government financing agency.

(e) The following projects shall not be eligible to receive deep targeting funds.

(i) Projects proposing to use nine percent Low Income Housing Tax Credits.

(ii) Rental rehabilitation projects that are not requesting HOME funds for acquisition.

(f) Deep targeting funds shall be allocated only to rental housing projects ranking high enough to be funded pursuant to 8212(b). If the demand for deep targeting funds exceeds the amount made available in the NOFA, projects will be rated and ranked for deep targeting funds as follows:

(i) The higher the percentage of HOME units restricted at or below the deep targeting rent levels set in the NOFA, the more points that will be awarded; and

(ii) The lower the average rent expressed as a percentage of area median income, the more points that will be awarded.

(iii) If a project requesting deep targeting funds does not score high enough on the deep targeting rating factors to receive deep targeting funds, the project will be evaluated pursuant to Section 8212(b) using the rents that are proposed at the regular maximum HOME loan amount, rather than the deep targeting HOME loan amount.

(g) Applicants requesting funds for deep targeting shall submit two sets of documents as requested in the application. One set of documents shall reflect rent levels and project financials if the project is funded at the regular maximum HOME funding level, and one set of documents shall reflect rent levels and project financials if the project is funded with deep targeting funds. Except for differences attributable to reduced non-public agency debt, the two project scenarios shall be the same. Although the project unit mix may change with deep targeting funds, the total number of units in the project shall not change. Among the HOME-assisted units, no more than four different rent levels expressed as a percentage of area median income shall be used for each bedroom size.

(h) In rating and ranking applications pursuant to subdivision (f), projects will only be compared to projects in counties with similar HOME median income limits as set forth in the NOFA. Initially, fifty percent of the available deep targeting funds shall be allocated to projects in counties with HOME income limits lower than the identified median income limit in the NOFA, and fifty-percent of the funds shall be awarded to projects in counties with HOME income limits higher than the identified median income limit in the NOFA. Unallocated funds from one group will be made available to the other group.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.201, 92.206, 92.218. 92.252 and 92.257; and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 12-10-2007; operative 12-10-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8213. Conditional Reservation of Funds.

(a) The Department will rate, rank and issue conditional reservations of funds for applications based on its review of all of the eligible activities for which funds are requested in the application. Rating scores for each of the factors set forth in Section 8212(b), (c) and (d) will be totaled by the Department. Those project applications which receive the minimum required number of points, as specified in 8212(d), and all eligible program applications will receive conditional reservations in the order in which they are ranked within their respective allocations pursuant to 8212.1 with the higher point score funded first. Those applications which are to be funded wholly from any set-aside, because all proposed activities are eligible to qualify as set-aside activities, shall be funded first based on their score within their respective allocations. Once the set-aside has been achieved, all remaining applications will be funded based on their score relative to all other remaining applications in their respective allocations.

(b) In the case of a tied score, the application demonstrating the highest poverty level shall receive the higher ranking.

(c) In the event there are insufficient funds to fund an applicant's whole program, the applicant may be offered the amount of funds available, provided it is sufficient to complete a portion of the application which, if evaluated separately, would have been awarded funds.

(d) Applications shall be funded subject to the availability of funds.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Section 92.150; and Sections 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8214 to section 8215 with amendment of NOTE and renumbering of former section 8215 to section 8216 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).
5. Renumbering of former section 8213 to new section 8211, and renumbering of former section 8215 to new section 8213, including amendment of subsection (a) and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
6. Amendment of section heading and subsection (a) and repealer of subsection (e) filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).
7. Amendment of subsection (a) filed 8-12-2005; operative 9-11-2005 (Register 2005, No. 32).
8. Amendment of subsection (a) filed 12-10-2007; operative 12-10-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

Article 4. Program Operations

§ 8214. Legal Documents.

(a) Standard Agreement

(1) The written document required by 24 CFR Section 92.504 shall be a contract known as a standard agreement. The Department shall enter into a standard agreement with each State Recipient and CHDO once the State Recipient and CHDO have demonstrated compliance with the requirements in their award letter.

(2) This standard agreement shall reserve monies from the HOME fund in an amount approved for funding by the Department pursuant to Section 8213.

(3) The standard agreement shall require compliance with those provisions of 24 CFR part 92 which are applicable to State Recipients and CHDOs and with this subchapter.

(4) The standard agreement shall include all the items specified in 24 CFR Section 92.504 and the following provisions:

(A) the granting and cancellation of HOME funds to the State Recipient or CHDO;

(B) State Recipient and CHDO responsibilities for local HOME program operation, including time frames and milestones as set forth in the application;

(C) reporting requirements, including performance reports, pursuant to Section 8216 and the recordkeeping requirements as necessary to ensure compliance with 24 CFR Sections 92.508 and 92.509;

(D) requirements related to ensuring that the HOME assistance to the project is not more than is necessary to provide affordable housing;

(E) project set-up and fund disbursement requirements, including provision of evidence that projects are ready to be set up and provisions for receipt, use, and accounting of HOME funds pursuant to Sections 8215 and 8217;

(F) provisions for securing loans and grants pursuant to subdivision (b);

(G) the actions to be taken to mitigate environmental effects in accordance with the requirements set forth in 24 CFR Section 92.352;

(H) requirements that the State Recipient or CHDO shall not discriminate or permit discrimination on the basis of race, color, religion, ancestry, sex, age, national origin, marital status, and mental or physical handicap, in accordance with state law and shall comply with the federal requirements as set forth in 24 CFR Sections 92.350 and 92.351;

(I) requirements that prior to the issuance of a state designation number which is necessary to access the federal disbursement and information system, the State Recipient or CHDO shall comply with the requirements of 24 CFR Sections 92.500 and 92.502;

(J) remedies available to the Department in the event of a violation, breach, or default of the standard agreement, including repayment of all costs of enforcement;

(K) requirements that the State Recipient or CHDO permit the Department, HUD or their designated agents and employees the right to inspect the project or projects and all books, records, and documents maintained by the State Recipient or CHDO in connection with the local HOME program;

(L) requirements that the State Recipient or CHDO submit audits pursuant to 24 CFR Section 92.506;

(M) any other terms and conditions as required by local, state, or federal law, which are necessary to ensure compliance with the requirements of the Act.

(b) Security and Regulatory Documents

(1) Except when the State Recipient will be retaining funds in a local account, all loans shall be evidenced by a promissory note payable to the Department in the principal amount of the loan and stating terms consistent with the requirements of HOME. The promissory note shall be secured by a deed of trust naming the Department as beneficiary, or by other security acceptable to the Department. Such security shall be executed prior to the disbursement of funds.

(2) If the State Recipient will be retaining funds in a local account, all loans shall be evidenced by a promissory note payable to the State Recipient in the principal amount of the loan. The promissory note shall be secured by a deed of trust naming the State Recipient as the beneficiary. All loans made to State Recipients by the Department for use on projects which the State Recipient owns shall be evidenced by a promissory note payable to the Department in accordance with subsection (b)(1).

(3) The Department or State Recipient shall ensure that restrictions are recorded or imposed against the project to ensure affordability requirements pursuant to Section 8208.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR part 92; 24 CFR Sections 92.303, 92.350, 92.352, 92.500, 92.502, 92.504, 92.508 and 92.509; and Sections 35800, 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8215 to section 8216 with amendment of NOTE and renumbering of former section 8216 to section 8217 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).
5. Renumbering of former section 8214 to new section 8212, and renumbering of former section 8216 to new section 8214, including amendment of section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
6. Amendment of subsection (a)(4)(L), new subsection (a)(4)(M) and subsection relettering filed 1-22-2001; operative 1-22-2001 pursuant to Government Code section 11343.4(e) (Register 2001, No. 4).
7. Amendment filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

§ 8215. Project Set-Up and Disbursement of Funds.

(a) Upon notification from the State Recipient or CHDO that it is ready to set up each project in the federal disbursement and information system:

(1) The State Recipient or CHDO shall submit to the Department the project set-up report required by 24 CFR Section 92.502(b) prior to the first disbursement request.

(2) The Department shall verify that the project is in compliance with the applicable conditions contained in the standard agreement.

(3) Upon verification of subsections (a)(1) and (a)(2), the Department shall set up the project with HUD in the federal disbursement and information system.

(b) HOME funds shall be drawn down by electronic fund transfer from the HOME fund for a project that has been set up pursuant to subsection (a).

(1) The Department shall make telephonic requests for disbursement directly to the federal disbursement and information system after receipt of a certification of the payment request. The original certification shall remain in the permanent project file.

(2) The Department shall withhold disbursements in the event the State Recipient or CHDO fails to comply with the terms of the standard agreement, these regulations and/or the requirements of 24 CFR part 92.

(c) Funds drawn from the HOME fund shall be expended for eligible costs within 15 days.

(1) Interest earned on HOME funds drawn from the federal disbursement and information system and remaining in the local account no more than 15 days shall be retained in the local account and used for eligible HOME costs.

(2) Unused funds, including interest earned on funds beyond the 15 days, shall be returned to the Department to be returned to the federal disbursement and information system.

(d) All HOME funds in the local account shall be disbursed in accordance with 24 CFR Section 92.502(c)(3).

(e) Within 60 days of receipt of the final drawdown request for a project, the State Recipient or CHDO shall provide to the Department the project completion report required by 24 CFR Section 92.502(e). If the State Recipient or CHDO does not comply with this requirement within the 60-day time period, the Department shall suspend further project set-ups or disbursements for the State Recipient or CHDO until a project completion report is received and accepted by the federal disbursement and information system.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Section 92.502; and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8216 to section 8217 with amendment of NOTE and renumbering of former section 8217 to section 8218 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).
5. Renumbering of former section 8215 to new section 8213, and renumbering of former section 8217 to new section 8215, including amendment of section heading, section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
6. Amendment filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

§ 8216. Reporting and Recordkeeping.

(a) Reporting Requirements

(1) Upon execution of the standard agreement required by Section 8214, and no later than 10 days following the last day of the month, recipients of project funds shall submit a monthly status report and, for projects currently under construction, a monthly labor compliance certification. The State Recipient or CHDO shall continue to submit the monthly status report until the final project completion report is accepted in the federal disbursement and information system. The monthly status report shall include the following:

(A) information to determine the progress of efforts to comply with environmental and labor standards requirements;

(B) information to determine the progress of efforts to obtain all necessary project financing;

(C) information to determine the progress of efforts to obtain required local government approvals for the project;

(D) information to determine whether there have been any changes in project site control;

(E) information to determine the timeline for completion of the project;

(F) current contact information for individuals or firms overseeing the development of the project.

(2) Upon execution of the standard agreement and, at a minimum, no later than 30 days after the end of each calendar quarter until the final project completion report is accepted in the federal disbursement and information system, State Recipients and CHDOs with HOME funds for program activities shall submit to the Department a performance report which shall include the following information:

(A) activities undertake to implement the local program and to meet milestones contained in the standard agreement;

(B) anticipated activities in the next quarter to implement the local program and to meet milestones contained in the standard agreement;

(C) problems in implementing the program or complaints received during the reporting period and actions taken to resolve such problems and complaints;

(D) financial information related to expenditures of HOME funds and activity in the local account;

(E) any additional information which may be requested by the Department to ensure compliance with federal requirements.

(3) State Recipients, CHDOs, or other borrowers shall submit to the Department an annual performance report. The annual performance report shall cover the period from July 1 to June 30 and shall be submitted on July 1 of each year and not later than July 31 of each year pursuant to Section 8214(a)(4)(C). The report shall include information and documentation which is necessary to meet record keeping and reporting requirements pursuant to 24 CFR Section 92.508(b).

(b) Fiscal and Programmatic Requirements

(1) State Recipients and CHDOs shall maintain records as described in 24 CFR Sections 92.508(a)(2), (a)(3), (a)(5), and (a)(6). These records shall be retained for the periods of time specified in 24 CFR Section 92.508(c). State Recipients and CHDOs shall make all program records available to the Department for inspection and review and shall provide all program records to the Department upon request.

(2) At any time during the operation of the local HOME program, the Department may perform or cause to be performed a financial audit pursuant to 24 CFR Section 92.506 of any and all phases of program operations. At the Department's request, the State Recipient or CHDO or other borrower shall provide, at its own expense, a financial audit prepared by a certified public accountant.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.250, 92. 352, 92.354, 92.504, 92.506 and 92.508; and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 7–2–92 as an emergency; operative 7–2–92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10–30–92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–23–92 as an emergency; operative 10–30–92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2–23–93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3–2–93 as an emergency; operative 3–2–93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6–30–93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–2–93 order including renumbering and amendment of former section 8217 to section 8218 with amendment of NOTE and renumbering of former section 8218 to section 8219 transmitted to OAL 5–26–93 and filed 7–7–93 (Register 93, No. 28).
5. Renumbering of former section 8216 to new section 8214, and renumbering of former section 8218 to new section 8216, including amendment of section heading, section and NOTE and repealer of forms filed 3–14–97; operative 3–14–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
6. Amendment of subsection (a)(2) filed 1–22–2001; operative 1–22–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
7. Amendment filed 9–9–2004; operative 9–9–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).
8. New subsections (a)(1)–(a)(1)(F), subsection renumbering, amendment of newly designated subsections (a)(2), (a)(2)(A) and (a)(2)(D) and amendment of NOTE filed 12–10–2007; operative 12–10–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8217. Project Deadlines.

(a) For purposes of this section, the following terms have the following meanings:

(1) "Contract" means the standard agreement required by section 8214. The contract shall designate each activity listed therein as either a "project" or a "program".

(2) "Contractor" means a CHDO or State Recipient that has executed a contract with the Department.

(3) "Expenditure" means the Department has received a valid disbursement request for the funds.

(4) "Performance points" means those points made available pursuant to Section 8212(d)(1)(A).

(5) "Project" means an activity for which, at the time of application, there is an identified site and an identified borrower. No substitution of sites shall be permitted after the submission of an application to the Department.

(6) "Program" means an activity for which, at the time of application, there is no identified site or no identified borrower.

(b) Project Deadlines

(1) All projects shall meet the following deadlines:

(A) the State Recipient or CHDO shall obtain all necessary permanent project financing, including the permanent financing for the required period of affordability within 12 months of the date of the award letter;

(B) all projects shall be set up in the federal disbursement and information system no later than 17 months after the date of the award letter;

(C) all construction loan closings shall occur no later than 20 months after the date of the award letter, with the exception of self–help projects, for which construction loan closings must occur no later than 23 months after the date of the award letter. Construction loan closing is defined as the recordation of all construction financing loan documents, including, as applicable, the HOME deed of trust and HOME regulatory agreement;

(D) all projects shall be completed within 36 months of the date of the award letter, as evidenced by the filing of a Notice of Completion; and

(E) all expenditures shall be made within 40 months of the date of the award letter.

(2) If a project fails to meet one or more of these timeframes outlined in (1) above, the next application for a project involving the applicant, developer, owner or managing general partner submitted in response to a NOFA having an application deadline after the missed project deadline/s shall receive a performance penalty pursuant to section 8212(d)(1)(A).

(3) If a project fails to meet three (3) of the timeframes outlined in (1) above the contractor shall be:

(A) ineligible to apply for a project in any NOFA having an application deadline following the third missed deadline until the project is completed, occupancy is obtained and all expenditures are made and all necessary HOME funds are drawn; and

(B) the next application for a project involving the applicant, developer, owner, or managing general partner shall receive a performance penalty.

(c) An exception to the project requirements of this section may be requested and provided at the Department's sole discretion when it is determined that violation was clearly outside of the control of the applicant, developer, owner or managing general partner. This provision does not apply to Subsection 8217(b)(3)(A).

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.454(a)(2) and 92.500(d); and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 7-2-92 as an emergency; operative 7-2-92 (Register 92, No. 28). A Certificate of Compliance must be transmitted to OAL 10-30-92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-23-92 as an emergency; operative 10-30-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-23-93 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-2-93 as an emergency; operative 3-2-93 (Register 93, No. 10). A Certificate of Compliance must be transmitted to OAL 6-30-93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8218 to section 8219 with amendment of NOTE and renumbering of former section 8219 to section 8220 transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).
5. Renumbering of former section 8217 to new section 8215, and renumbering of former section 8219 to new section 8217, including amendment of section heading, section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
6. Amendment of section heading and section filed 12-27-99; operative 12-27-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 53).
7. Amendment of subsections (b)(1), repealer of subsection (b)(2), and amendment of subsections (c)(1) and (c)(4) filed 1-22-2001; operative 1-22-2001 pursuant to Government Code section 11343.4(e) (Register 2001, No. 4).
8. Amendment filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).
9. Amendment of section heading and section filed 8-12-2005; operative 9-11-2005 (Register 2005, No. 32).
10. Amendment of subsections (b)(2), (b)(3)(B) and (c) filed 12-10-2007; operative 12-10-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 50).

§ 8217.1. Identification and Set-Up Deadlines for Contracts Numbered Prior to 1999.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.454(a)(2) and 92.500(d); and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. New section filed 12-27-99; operative 12-27-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 53).
2. Change without regulatory effect adding section heading filed 7-28-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 30).
3. Repealer filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

§ 8218. Cancellation and Termination.

(a) Funding allocations to state recipients and CHDOs shall be canceled or reduced and standard agreements shall be terminated or amended by the department under any one of the following conditions:

(1) State recipients or CHDOs are not in compliance with the requirements of HOME or the standard agreement;

(2) implementation of the local HOME program is not in compliance with the time frames and goals stated in the state recipient's or CHDO's application and standard agreement;

(3) special conditions for funding as stated in the standard agreement have not been fulfilled; or

(4) the department has been notified by HUD of a reduction in or elimination of the department's allocation of HOME funds.

(b) At least fourteen days prior to the effective date of the termination or amendment of a standard agreement, the department shall provide written notice to state recipients and CHDOs of its intent to cancel or amend the funding allocation.

(c) Upon notification by the department that the funding allocation is canceled or reduced and the standard agreement is terminated or amended, the state recipient or CHDO shall:

(1) complete all work affected by the cancellation or reduction that is in progress; and

(2) terminate any other activities that were to be paid for with HOME funds.

(d) After all required repayments have been returned to C/MI, any funds remaining in the state recipient's local account shall be made available in accordance with section 8210(g) of this subchapter.

NOTE: Authority cited: Sections 50406 and 50896.3(b), Health and Safety Code. Reference: 24 CFR Sections 92.504(c)(1)(x) and 92.504(c)(3)(vii); and Sections 50896 and 50896.1, Health and Safety Code.

HISTORY

1. Certificate of Compliance as to 3-2-93 order including renumbering and amendment of former section 8219 to section 8220 with amendment of NOTE transmitted to OAL 5-26-93 and filed 7-7-93 (Register 93, No. 28).
2. Renumbering of former section 8218 to new section 8216, and renumbering of former section 8220 to new section 8218, including amendment of section and NOTE filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).

§ 8219. State Recipient Administration of CHDO Local Programs.

NOTE: Authority cited: Section 50406, Health and Safety Code. Reference: 24 CFR Sections 92.201 and 92.502.

HISTORY

1. Renumbering of former section 8219 to new section 8217 and new section filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).
2. Repealer filed 9-9-2004; operative 9-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 37).

§ 8220. [Reserved.]

HISTORY

1. Renumbering of former section 8220 to new section 8218 filed 3-14-97; operative 3-14-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 11).

Subchapter 18. Child Care Facilities Financing Program

Article 1. General

§ 8250. Purpose and Scope.

(a) As part of the Thompson-Maddy-Ducheny-Ashburn Welfare-to-Work Act of 1997, (Ch. 270, stats. of 1997, codified at Education Code sections 8277.5 and 8277.6), the Legislature established the Child Care and Development Facilities Loan Guaranty Fund (hereafter, the "Loan Guaranty Fund") and the Child Care and Development Facilities Direct Loan Fund (hereafter, the "Direct Loan Fund") (combined, the "Funds"), and mandated that the Department of Housing and Community Development (the "department") administer the Funds, and establish regulations for implementing and managing the Funds.

(b) The purpose of this subchapter is to implement, interpret, and make specific the legislative provisions establishing and governing the Loan Guaranty Fund and the Direct Loan Fund as set forth in Education Code Part 6, Chapter 2, Article 12, sections 8277.5 and 8277.6 (the "statutes"). These regulations shall be referred to as the "Child Care Facilities Financing Program," or "CCFFP."

(c) This subchapter makes child care facility assistance available through three programs: (1) a program, to be administered by the department or a department contractor, to guaranty loans; (2) a direct loan program which may be administered directly by the department or through a department contractor; and (3) a microenterprise assistance program whereby the department will make assistance available to local microenterprises to assist eligible family child care homes serving more than six (6) children.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Chapter 270, Stats. of 1997, Section 1; and Sections 8277.5 and 8277.6, Education Code.

HISTORY

1. New subchapter 18, article 1 (sections 8250–8251) and section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New subchapter 18, article 1 (sections 8250–8251) and section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repeal of subchapter 18 (articles 1–5, sections 8250–8273), article 1 (sections 8250–8251) and section by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New subchapter 18 (articles 1–5, sections 8250–8273), article 1 (sections 8250–8251) and section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8251. Definitions.

Unless otherwise indicated by the context, the following definitions shall apply to this subchapter.

(a) "Amortized" or "amortized loan" means a loan which shall be repaid in regular payments of principal and interest sufficient to pay off the loan at maturity.

(b) "Applicant" means an entity applying for a guaranty, a direct loan, or microenterprise assistance.

(c) "Application" means the information provided by a borrower applying for a guaranty, a direct loan, or microenterprise assistance.

(d) "Borrower" means an applicant who has received a guaranty, a direct loan, or microenterprise assistance, but does not include an "intermediary."

(e) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(f) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services may include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

(g) "Collateral" means real or personal property pledged by a borrower, guarantor or intermediary as security for repayment of a direct loan, microenterprise, guarantied loan or intermediary loan.

(h) "Collection guaranty" means a guaranty of a specified percentage of net loan principal and up to 120 days of interest at the same percentage. "Net loan principal" means the amount of loan principal remaining outstanding after the lender has fully complied with the collection procedures described in sections 8261 and 8262 of this subchapter.

(i) "Community Care Licensing Division" means the same as "licensing agency" which means the State Department of Social Services, or its contractor.

(j) "Contractor" means a public or private entity under contract to the department or the department's contractor for the purpose of administering loan guaranties, direct loans or microenterprise.

(k) "Creditworthy" means that with the loan, the borrower will have the ability to, for the reasonably foreseeable future, remain a going concern, and repay the loan on the agreed to terms.

(l) "Default" means: (1) either a delinquency, or a nonmonetary breach of the lender's loan documents, or (2) that the borrower is in bankruptcy.

(m) "Delinquency" means the failure of the borrower to make any payment when due, pursuant to the terms of the promissory note.

(n) "Demand" means a request for payment of all outstanding loan principal and interest, and other fees due, on a guarantied loan, direct loan, or microenterprise assistance.

(o) "Demand letter" means a letter containing a demand for payment delivered pursuant to section 8261 of this subchapter.

(p) "Department" means the California Department of Housing and Community Development.

(q) "Direct loan" means a loan made to an applicant by the department or its contractor in a principal amount of not less than $25,000.

(r) "Direct Loan Fund" means the Child Care and Development Facilities Direct Loan Fund established by subdivision (b) of Education Code section 8277.5.

(s) "Direct loan program" refers, collectively, to those provisions of the statutes and this subchapter relating to the making of loans using funds from the Direct Loan Fund.

(t) "Environmental survey" means an assessment to be completed by the applicant, or other individuals familiar with the project, which will give the lender an indication of the possible risks from any hazardous substance that may be encountered relative to the project. "Hazardous substance," for the purpose of this subchapter shall have the same meaning as set forth in paragraph (2) of subdivision (e) of section 2929.5 of the Civil Code.

(u) "Facility" means the same thing as "child care and development facility."

(v) "Family child care home" means a facility which is a residence at which child care and development services are provided for more than six (6) children.

(w) "Guaranty" means a written agreement between a lender and another entity whereby the entity agrees to pay the lender a percentage of a loan if the borrower for that loan fails to perform. Every guaranty shall be either a "collection guaranty" or a "loan guaranty."

(x) "Guarantied loan" means a loan made by a lender to a borrower for which a guaranty has been issued pursuant to this subchapter.

(y) "Improvement" means a physical change to real property which increases its utility to the owner for the provision of child care and development services.

(z) "Intermediary" means an entity selected by the department to receive a loan from the Microenterprise Set Aside and which awards microenterprise assistance to ultimate recipients and monitors and services that assistance.

(aa) "Intermediary loan" means a loan from the department from the Microenterprise Set Aside to an Intermediary to operate a micrenterprise relending program.

(bb) "Lender" means a banking organization, including banks and trust companies and state chartered commercial banks, savings and loan associations, credit unions, state insurance companies, mutual insurance companies, retirement and insurance companies, and other lending entities authorized to conduct business in California, and includes the department or its contractor for direct loans made pursuant to this Subchapter.

(cc) "Lender certification" means a written statement by a lender certifying that: (1) the loan being guarantied would not be made without the guaranty; and (2) the lender will not charge loan fees or charges other than those charged for similar loans.

(dd) "License" means the license required by Health and Safety Code section 1596.80 to operate a child day care facility (as defined by Health and Safety Code section 1596.750) and issued by the Community Care Licensing Division of the State Department of Social Services, or its contractor.

(ee) "Licensed child care and development facility" means a facility operating under a valid license.

(ff) "Loan" means a direct loan made to a borrower by the department or its contractor, a microenterprise assistance loan made to a borrower by an intermediary, or a loan made to a borrower by a lender and guarantied by the department or its contractor, and which loan has been made or guarantied pursuant to this subchapter.

(gg) "Loan Agreement" means an agreement for a loan entered into between a lender and a borrower.

(hh) "Loan Guaranty" means a guaranty of a specified percentage of loan principal and up to one hundred twenty (120) days interest at the same percentage as specified in the underlying guaranty.

(ii) "Loan Guaranty Fund" means the Child Care and Development Facilities Loan Guaranty Fund established by subdivision (b) of section 8277.5 of the Education Code.

(jj) "Guaranty program" collectively refers to those provisions in the statutes and this subchapter relating to the making of guaranties backed by funds from the Loan Guaranty Fund.

(kk) "Lower Income" means the same thing as "income eligible" as set forth in Section 8263.1 of the California Education Code.

(ll) "Microenterprise business" means a business with five or fewer employees, including the owner.

(mm) "Microenterprise assistance loan" means a loan of not more than $24,999 and made by an intermediary to an ultimate recipient.

(nn) "Microenterprise Assistance program" means the program set forth in Article 5 of this subchapter.

(oo) "Microenterprise Assistance Set Aside" means the funds set aside by the department from the Direct Loan Fund for the purpose of the Microenterprise Assistance program.

(pp) "Note" or "promissory note" means a promise in writing and executed by a borrower to pay a specified amount during a limited time or on demand.

(qq) "Program assistance" means a direct loan, a guaranteed loan, or assistance provided through the Microenterprise Assistance Program to an ultimate recipient.

(rr) "Project" means the activity for which the loan is being requested.

(ss) "Rural area" or "rural community" means any area or community located in a county with fewer than 400 residents per square mile as determined from the most recent decennial census.

(tt) "Security" means the same thing as "collateral."

(uu) "Statutes" means Education Code sections 8277.5 and 8277.6.

(vv) "Surplus Money Investment Fund" means the Surplus Money Investment Fund referenced in Government Code section 14671.

[The next page is 496.111.]

"(ww)" Ultimate recipient" means a family child care home provider serving more than six children and which has received assistance through an intermediary from the Microenterprise Assistance Program.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8208(g), 8208(i), 8277.5 and 8277.6, Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

Article 2. General Program Requirements

§ 8252. Eligible Applicant.

Eligible applicants for program assistance shall include, but are not limited to, sole proprietorships, partnerships, proprietary or nonprofit corporations, or local public agencies, that are responsible for contracting with or providing licensed child care and development services.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(d)(1), 8277.5(e)(1) and 8277.6(c), Education Code.

HISTORY

1. New article 2 (sections 8252–8257) and section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New article 2 (sections 8252–8257) and section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repeal of article 2 (sections 8252–8257) and section by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New article 2 (sections 8252–8257) and section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8253. Eligible Facilities.

Facilities eligible for program assistance shall include full–day and part–day child care and development facilities, and family child care homes serving more than six (6) children.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Section 8277.6(c), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8254. Eligible Project and Program Priorities.

(a) To be eligible to receive program assistance, the proposed project shall create new child care and development capacity, or preserve capacity that would otherwise be lost without the program assistance.

(b) To be eligible to receive program assistance, the proposed project or applicant must also meet one of the following program priorities:

(1) More than fifty percent (50%) of the capacity being created or preserved shall be for any combination of:

(A) Infant care for children from birth to three (3) years of age;

(B) After school care for children from five (5) to fourteen (14) years of age;

(C) Non–traditional operating hours care (e.g. during evenings and weekends);

(D) Serve special needs children. "Special needs" means children with professionally diagnosed disabilities which may include physical, mental, and/or medical impairments; or

(2) The applicant currently operates a facility on or adjacent to a public school, the facility has lost capacity at the school as a result of the class size reduction program, and the proposed project will replace the lost capacity; or

(3) The applicant is currently under contract with the California Department of Education to administer state and federally–funded child care and development programs; or

(4) More than fifty percent (50%) of the capacity that will be created or preserved by the proposed project will serve children from "Welfare–to–Work" families or other lower income families.

(c) Thirty percent (30%) of the funds made available from the Loan Guaranty Fund for purposes of guarantying loans, and thirty–percent (30%) of the funds made available from the Direct Loan Fund for purposes of making direct loans shall be reserved and made available only for projects located in rural areas (respectively, the "Loan Guaranty Rural Set Aside" and the "Direct Loan Rural Set Aside"). On or after June 30 of each year, commencing with the year 2001, the department shall assess the amount of qualified applications for eligible projects located in rural areas receiving funds from each of the Loan Guaranty Rural Set Aside and Direct Loan Rural Set Aside (individually, a "rural set aside"). If the amount of qualified applications from rural providers is insufficient to utilize all of the available funds in a rural set aside, the department may make the excess funds in that set aside available to other qualified applications for eligible projects located in either rural or urban areas.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(d)(1), (e)(1), 8277.6(c), (e), (f) and (g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8255. Eligible Use of Funds.

(a) Program assistance shall only be used for the following purposes: purchase, development, construction, expansion, acquisition or improvement of child care and development facilities that are, or will be, licensed; related equipment and fixtures; and may be used to refinance existing loans as provided in subsection (b).

(1) Loan proceeds used for improvements shall only be used to fund improvements necessary for any of the following purposes:

(A) to obtain, maintain, renew, expand, or revise a child care license;

(B) to make necessary health and safety improvements;

(C) to make seismic improvements;

(D) to provide access for disabled children.

(E) to expand or preserve existing child care operations

(2) Loan proceeds to a family child care home serving more than six (6) children shall not be used to purchase a home or any real property.

(b) The amount of program assistance used to refinance existing loans shall not exceed fifty percent (50%) of the total amount of the guarantied loan, direct loan, or microenterprise assistance. Repayment of an existing loan made for the purpose of purchasing, developing, constructing, expanding, acquiring, or improving a child care and development facility shall not be considered refinancing if the term of the existing loan does not exceed 24 months.

(c) Program assistance shall not be used for working capital, supplies, or inventory.

(d) Program assistance may be used to pay loan fees and points, other than an application fee.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(d)(1), (d)(2), (e)(1), (e)(2) and 8277.6(d), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8256. Additional Conditions.

As a condition of receiving a guaranty or direct loan, a successful applicant shall agree in writing to:

(a) provide licensed child care and development services in the facility being assisted with the guaranty or direct loan for a period of twenty (20) years, or the term of the guaranty or direct loan, whichever is shorter; and

(b) waive any claims against, and to indemnify and hold harmless, the State of California, including the department and its contractors from and against any and all claims, costs, and expenses stemming from operation and maintenance of the facility being assisted with program assistance, or the environmental degradation of the site upon which the facility is located.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(d)(4), (d)(5), (e)(3) and 8277.6(h) Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8257. Availability of Loan Guaranties and Direct Loans.

(a) Loan guaranties shall be funded with funds from the Loan Guaranty Fund. Direct loans and microenterprise assistance shall be funded with funds from the Direct Loan Fund. The aggregate amount of all outstanding loan guaranties shall not exceed four (4) times the balance of the Loan Guaranty Fund, and the aggregate amount of all outstanding direct loans and microenterprise assistance shall not exceed the amount in the Direct Loan Fund.

(b) Each application for a guaranty or a direct loan shall be date stamped upon receipt by the department or its contractor. Loan guaranties and direct loans shall be made available to eligible applicants with complete applications by the department or its contractor using an "over-the-counter" process whereby applications will be accepted, processed and evaluated on an on-going basis in the order they are received so long as funds remain available.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(d) and (e), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

Article 3. Guaranty Program

§ 8258. Guaranty Application Procedure.

An applicant shall apply for a guaranty to the department or its contractor by providing the department or its contractor with the same information provided to the lender that will be the beneficiary of the guaranty and by providing all of the information set forth in subsections (a) and (r) of section 8269 of this subchapter. The applicant shall also include a lender certification with the application and a statement made under penalty of perjury that the information submitted is true and correct to the best of the applicant's knowledge.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.6(b) and (g), Education Code.

HISTORY

1. New article 3 (sections 8258–8263) and section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New article 3 (sections 8258–8263) and section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repeal of article 3 (sections 8258–8263) and section by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New article 3 (sections 8258–8263) and section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8259. Guaranty Application Processing.

The department or its contractor shall review and process a guaranty application in accordance with the following procedures:

(a) Within thirty (30) working days of receipt of an application for a guaranty, the department or its contractor shall review the application and provide the applicant with written notice as to whether the applicant and proposed project are eligible to receive a guaranty, and whether the application is sufficiently complete to allow further processing. If the applicant or project is ineligible, or if the application is incomplete, the notice shall specify the steps, if any, the applicant may take to correct the identified deficiencies.

(b) Within sixty (60) days of the mailing of notification that an application is eligible for further processing, the department or its contractor shall notify the applicant in writing of the department's or contractor's approval or denial of the guaranty request. If the decision is to approve the application, the applicant shall be notified of any conditions placed on the approval, and the department or its contractor shall issue a commitment to guaranty, and an executed guaranty to the lender. If the decision is to deny the application, the applicant shall be informed of the reasons for the denial.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8260. General Terms and Conditions of Guaranties.

In addition to the terms and conditions set forth in Article 2 of this subchapter, loan guaranties shall also be subject to all of the following terms and conditions:

(a) A single guaranty shall not exceed eighty percent (80%) of the principal and interest due and owing on a loan for eligible project costs, and the total amount of all outstanding loan guaranties for any one borrower shall not exceed two million dollars ($2,000,000).

(b) The term of the guaranty shall be the lesser of twenty (20) years or the term of the loan, and shall be subject to termination conditions described in subsection 8263.

(c) The guaranty shall contain a requirement that the maximum amount of interest to be paid is one hundred twenty (120) days at the guarantied percentage, after the lender receives the notice defined in section 8263(d).

(d) The guaranty shall contain a statement that the lender send to the department, or its contractor executing the guaranty, a copy of all delinquency notices tendered to the borrower.

(e) The guaranty shall contain a description of the procedures and the responsibilities of the lender and the department or its contractor subsequent to default, including information on whether the guaranty is a loan guaranty or a collection guaranty.

(f) The guaranty shall contain section 8261 demand procedures.

(g) The guaranty shall contain an acknowledgment by the lender that in the event of a demand, the lender will allow a representative of the Department of Financial Institutions, or other auditor selected by the department or its contractor, to examine the lender's loan files.

(h) The guaranty shall contain an agreement to abide by binding arbitration by the American Arbitration Association in the event that the department or its contractor denies the requested demand pursuant to section 8261 or 8262, or the amount paid to the lender is less than the amount contained in the demand letter.

(i) The guaranty shall acknowledge that the full faith and credit of the State of California is not, and shall not be, pledged to the Loan Guaranty Fund; and the State of California is not, and shall not be, liable for loan defaults that exceed the balance of funds on deposit in the Loan Guaranty Fund.

(j) If the department utilizes a contractor to administer the guaranty, the guaranty authorizes the contractor to charge a guaranty applicant an application fee not to exceed two hundred fifty dollars ($250.00) and a guaranty fee not to exceed two percent (2%) of the principal amount guarantied.

(k) The department or its contractor shall approve a guaranty application and issue a guaranty if it finds that all of the following conditions have been met:

(1) The aggregate amount of all outstanding guaranties, plus the amount of the requested guaranty, will not exceed four (4) times the current balance in the Loan Guaranty Fund;

(2) The applicant is eligible pursuant to this subchapter;

(3) The use of the proceeds of the loan being guarantied is eligible pursuant to this subchapter;

(4) The project is in accordance with the threshold and priority criteria set forth in section 8254;

(5) Not more than fifty percent (50%) of the loan proceeds shall be used to refinance existing loans;

(6) Repayment of the loan is secured by reasonably available collateral which may include, but shall not be limited to, a deed of trust on the property assisted with the guarantied loan and the personal guaranties of any shareholders or partners;

(7) There is no probability that the loan being guarantied would be made by the lender under reasonable terms or conditions without the guaranty, and the applicant has demonstrated a reasonable prospect of repayment of the guarantied loan;

(8) The application includes a lender certification;

(9) The lender's loan documents contain an agreement by the borrower to maintain a current, valid child care license for the facility during the term of the guarantied loan;

(10) The lender's loan documents contain an agreement by the borrower to provide child care and development services at the facility for which the loan was made, for the lesser of twenty (20) years or the term of the guarantied loan, unless the borrower is a family child care provider temporarily ceasing providing child care and development services and complying with section 8260(k)(11);

(11) The lender's loan documents require that the borrower shall notify the lender and the department or its contractor within fourteen (14) calendar days of the cessation of child care and development services in the facility for which the guarantied loan was made ("cessation notice");

(12) In the case of a family child care provider borrower that ceases to provide services but retains its license and intends to resume services, the cessation notice shall also include: (i) the reasons for the interruption in services; and (ii) a date for resuming services. The borrower may amend the resumption of services date declared in the cessation notice by submitting an amended cessation notice to the lender and the department or its contractor. The lender's loan documents shall also contain a requirement that any cessation of services exceeding three years from the date of the initial cessation notice shall constitute a default of the loan;

(13) The lender's loan documents contain a provision that, with the exception of a family child care provider temporarily ceasing to provide services in compliance with section 8260(k)(11), failure by the borrower to continue operation of the licensed facility assisted with the guaranty for child care and development shall constitute a default or breach under the lender's loan documents;

(14) The lender has complied with all material conditions contained in the guaranty, including perfecting its security interest in all collateral, and the lender has not engaged, and will not engage, in fraudulent or grossly negligent practices in connection with the borrower, guaranty, the loan or the loan agreement; and

(15) The department's contractor, if any, is also not the lender.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(d), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8261. Demand Procedures for Guarantees.

(a) The lender may make a demand upon the department or its contractor for repayment of the unpaid loan principal and interest pursuant to the terms of the guaranty by delivering a demand letter requesting immediate payment of the guarantied portion of loan interest and principal to the department or its contractor. The demand letter shall include proof that the borrower is in default and that the lender has delivered to both the borrower and the department or its contractor the following written notices:

(1) In the case of a monetary default, a minimum of two (2) notices subsequent to the delinquency upon which the default is based, at least thirty (30) days apart, explaining the consequences of failure to remedy the delinquency; or

(2) In the case of a non–monetary breach of the loan documents, a minimum of two (2) notices of the breach, at least thirty (30) days apart, explaining the consequences of failure to remedy the breach; and

(3) Notwithstanding the above provisions of this subsection, the lender shall not be required to deliver any notice of a monetary default or non-monetary breach subsequent to a borrower's filing for bankruptcy.

(b) Within five (5) working days of receipt of a demand letter, the department or its contractor shall contract with the Department of Financial Institutions or an independent auditor to conduct an investigation to determine whether the lender has complied with the terms of the guaranty, and to issue a report to the department and its contractor, if any. The investigation shall address each of the following questions or topics:

(1) Is the loan agreement between the borrower and the lender consistent with the terms and conditions of the guaranty?

(2) Has a security interest in all collateral for the loan and guaranty been perfected and maintained? Is all collateral available for assignment to the department or its contractor in the event that payment is made upon the demand? Is any collateral not available as a result of lender's negligence, breach of contract, foreclosure or other cause? Fully describe the circumstances and reasons that any collateral is unavailable due to any of these causes.

(3) If the guaranty is a collection guaranty, has the lender complied with the collection requirements for collection guaranties set forth in section 8262?

(4) What is the borrower's current outstanding principal balance and accrued interest?

(5) Has the lender complied with the procedures for making a demand set forth in this section?

(6) In a section entitled "Loan Information," the report shall include the following information obtained solely from a review of lender files: a description of the borrower's business, a description of the collateral for the loan, and a discussion as to whether the lender files contain any reference to matters material to borrower's compliance with any child care laws or regulations.

(7) In a section entitled "Loan History," the report shall include a summary of the borrower's loan history, including the lender receipt of notice date as referenced in section 8263(d), and the dates of the notices to the borrower referenced in section 8261(a).

(c) Within fifteen (15) calendar days from the date the department or its contractor receives a complete report from the Department of Financial Institutions or an independent auditor, the department or its contractor shall do one of the following:

(1) Deliver or cause to be delivered to the lender a check in an amount not to exceed the amount contained in the demand letter, made payable to the lender; or

(2) Deliver or cause to be delivered to the lender a denial of the request for payment based upon fraud or gross negligence on the part of the lender known to the department or its contractor.

(d) The amount paid to the lender pursuant to a demand letter shall be less than the amount contained in the demand letter only under the following circumstances:

(1) The demand contains an incorrect calculation of the amount owing; or

(2) The amount owing on the loan has been reduced by subsequent payments from the borrower or lender; or

(3) The lender has engaged in fraudulent activities pertaining to the loan.

(e) Prior to or simultaneously with the delivery of a check to a lender, the department or its contractor shall obtain an assignment by the lender of the lender's interest in the loan. The assignment shall include the loan promissory note, loan agreement (if any), and all collateral, except as provided in the Collection Requirements for Collection Guaranties section (section 8262).

(f) Demand must be made upon the department or its contractor no later than noon on the thirty-first (31st) calendar day following the date on which the guaranty terminates; provided, however, that if the thirty-first (31st) day is not a day upon which the department or its contractor is open for business, the last day for making a demand shall occur on the next succeeding day upon which the department or its contractor is open for business.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(d), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4-16-99 as an emergency; operative 4-16-99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10-13-99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-1-99 as an emergency; operative 10-13-99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-10-2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2-2-2001; operative 2-2-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8262. Collection Requirements for Collection Guaranties.

(a) A lender shall not be authorized to file a demand for a collection guaranty unless it has complied with this section, and demand procedures contained in section 8261.

(b) The lender must liquidate all collateral, but shall not be required to file a lawsuit against any borrower or guarantor. "Liquidate" as used in this subsection (b) means that the lender has exhausted all collateral by one or more of the following methods:

(1) Converted the collateral to cash; or

(2) Demonstrated, to the satisfaction of the department or its contractor that the collateral is without sufficient value to convert to cash; or

(3) Demonstrated that the borrower has filed for bankruptcy.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(d), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4-16-99 as an emergency; operative 4-16-99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10-13-99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-1-99 as an emergency; operative 10-13-99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-10-2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2-2-2001; operative 2-2-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8263. Termination of Guaranty.

(a) A guaranty shall terminate upon full repayment of the guarantied loan.

(b) Except for a guaranty of a loan made to a family child care provider who has submitted a cessation notice declaring the intent to resume child care and development services in accordance with section 8260(k)(11), a guaranty shall terminate one hundred twenty (120) days from the lender's receipt of notice that the borrower has either ceased making payments or providing child care and development services in the facility for which the guarantied loan was made, or both, unless the lender has served the borrower with a written notice of default prior to the end of the one hundred twenty (120) day period.

(c) In the event a family child care provider has ceased to provide child care and development services but has retained its license and has notified the lender and department or its contractor of its intent to resume providing child care and development services in accordance with section 8260(k)(11), the guaranty shall terminate one hundred twenty (120) days from the resumption of services date declared in the cessation notice, or any amended resumption of services date declared in an amended cessation notice unless: (1) the lender receives a written statement from the provider made under penalty of perjury stating that the provider has a current license and has resumed providing child care and development services; or (2) the lender has served the borrower with a written notice of default prior to the end of the hundred twenty (120) day period after the resumption of services date, or any amended resumption of services date.

(d) "Receipt of notice" for purposes of this section means: (1) the lender has actual or constructive notice through its own internal records; (2) the lender has received notice from the borrower, or (3) the lender has received written notice from the department or its contractor.

(e) The lender shall use all reasonable means to insure that the borrower actually receives the notice of default, including but not limited to use of certified mail return receipt requested, or personal delivery.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(d), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

Article 4. Direct Loan Program

§ 8264. Loan Limits.

In addition to the terms and conditions set forth in Article 2 of this subchapter, direct loans shall also be subject to all of the following conditions:

(a) A direct loan shall not be made in an amount less than twenty–five thousand dollars ($25,000.00), and the total outstanding balance of direct loans to any one borrower, including principal and interest, shall not exceed two million dollars ($2,000,000).

(b) The total amount of a direct loan shall not exceed fifty percent (50%) of the applicant's total investment in the project.

(1) "Investment" means the total cost paid or incurred by the applicant in constructing, renovating, or acquiring a facility, and for related equipment and fixtures

(2) If the applicant is also receiving a guaranty provided pursuant to this subchapter for the same project, the direct loan amount shall not exceed twenty percent (20%) of the investment.

(c) Not more than fifty percent (50%) of the total amount of the direct loan allowed in subsection (b) may be used to refinance existing debt. Refinancing shall only be permitted if it will enhance the applicant's creditworthiness by enhancing security for repayment of the loan, and/or by enhancing the applicant's cash flow.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(e)(2), 8277.6(b) and (g), Education Code.

HISTORY

1. New article 4 (sections 8264–8272) and section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New article 4 (sections 8264–8272) and section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repeal of article 4 (sections 8264–8272) and section by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New article 4 (sections 8264–8272) and section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8265. Loan Term.

The term of a direct loan shall be commensurate with the type of asset being financed and the borrower's ability to repay, and shall not exceed twenty (20) years.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(e)(3), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8266. Interest Rates.

The interest rate for a direct loan shall be set at the time of application, shall be fixed for the term of the loan, and shall be set at a rate equivalent to the Surplus Money Investment Fund rate in effect on December 31 of the preceding calendar year.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(e)(3), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8267. Repayment.

A direct loan shall be amortized to be fully repaid by the end of the loan term, except that principal and/or interest payments may be deferred during construction and initial project start up period so long as the deferral or reduced payment does not result in a balloon payment at the end of the loan term. Late charges on principal and interest payments may be charged as permitted by law.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(e)(3), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8268. Security/Collateral.

Repayment of a direct loan shall be secured by reasonably available collateral which may include, but shall not be limited to, a deed of trust or personal guaranties of any shareholders or partners.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(e)(3), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8269. Application Procedure.

An applicant shall apply for a direct loan to the department or its contractor by providing the department or its contractor with all of the information set forth in this section. Said information shall be submitted in

a format acceptable to the department or its contractor and shall be submitted with a certification under penalty of perjury that the information provided is true and correct to the best knowledge of the applicant. Information submitted in support of a direct loan request shall be accepted on an "over-the-counter" basis as long as funds remain available. In order for a request for a direct loan to be considered for further processing, the applicant shall submit the following information:

(a) A description of the project, including: number of child care spaces to be created or preserved by the proposed project; number of proposed jobs to be created by the project; identification of whether the project is located in an urban or rural area; and identification of which priorities set forth in section 8254, subdivisions (a) and (b) shall be met by the project.

(b) Applicant business information including: name of business, mailing address, telephone numbers, contact person, federal tax identification number, date business was established, and form of business organization.

(c) Loan information including: requested loan amount and term, requested use of funds, and a description of collateral offered to secure repayment of the loan.

(d) Facility information including: name of facility, address of facility, number of years at that location, and ownership/rental data for facility.

(e) Name, address, telephone number, title and percent of ownership, as applicable, for principals of the business.

(f) Business banking and financial contact information.

(g) Credit history for the business and principals of the business regarding bankruptcies, judgments, liens, foreclosures, repossessions, criminal penalties, and potential financial liabilities that could become due and payable during the loan term, as applicable.

(h) Description of all sources and uses of funding for the project.

(i) Completed environmental survey. After review of the survey, the department or its contractor may request additional information concerning the project if it appears that hazardous materials may be present in, on, under, or around the project or project site.

(j) A signed and dated copy of business financial statements, including all schedules, for the last three (3) operating years and signed and dated current business financial statements, including all schedules, dated within ninety (90) days of the date the loan application is filed.

(k) Signed and dated complete copies of business federal tax returns for the last three (3) years, including all schedules.

(*l*) A copy of the most recent business formation documents (articles and by-laws for corporations, and partnership agreement for partnerships).

(m) A corporate or governing body resolution granting authority to apply for direct loan funds.

(n) A signed and dated current personal financial statement and signed and dated complete copy of the most recent federal tax return, including all schedules, for each owner that owns twenty percent (20%) or more of the business, and for each guarantor.

(o) Signed and dated two (2) years of financial projections for the applicant's business.

(p) Evidence that the applicant has site control where the project will be undertaken. Evidence of control shall be demonstrated by submittal of one of the following:

(1) In the case of fee ownership, a certified copy of a recorded grant deed showing ownership in the name of the applicant;

(2) In the case of an option to purchase, a certified copy of an option agreement granting an option to purchase the facility to the applicant; or

(3) In the case of a lease, a copy of the lease agreement between the applicant and the owner with a term, including any permitted extensions or renewals, at least equal to the term of the requested loan plus one year, and containing a provision permitting the applicant to make physical changes to the property and improvements as contemplated by the project.

(q) If the applicant will be pledging any other real property as security for repayment of the direct loan, a certified copy of the grant deed for that property.

(r) A copy of the current child care license, application for a license, or amendment to a license, and any other business licenses related to the operation of the facility, including a fictitious name filing, if applicable.

Upon receipt and review of the information submitted in support of a direct loan request, the department or its contractor may require the applicant to submit additional information to determine the applicant's creditworthiness and the eligibility of all project costs.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(e), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4-16-99 as an emergency; operative 4-16-99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10-13-99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-1-99 as an emergency; operative 10-13-99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-10-2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2-2-2001; operative 2-2-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8270. Application Processing and Evaluation.

(a) Within ten (10) working days of receipt of an application for a direct loan, the department or its contractor shall provide the applicant with written notice as to whether the applicant and proposed project are eligible to receive a direct loan, and whether the application is sufficiently complete to allow further processing. If the applicant or project is ineligible, or if the application is incomplete, the notice shall specify the steps, if any, the applicant may take to correct the identified deficiencies

(b) Within sixty (60) working days of notifying an applicant that an application is complete and has been accepted for further processing, the department or its contractor shall render a written decision on the application.

(c) The department or its contractor shall approve a direct loan application when it finds that all of the following requirements have been met:

(1) The applicant and the project are eligible;

(2) All costs to be funded with direct loan proceeds are eligible costs;

(3) The project is in accordance with the threshold and priority criteria set forth in section 8254;

(4) The business to be assisted using direct loan funds is creditworthy;

(5) Repayment of the loan is secured by reasonably available collateral which may include, but shall not be limited to, a deed of trust on the property assisted with the direct loan and the personal guaranties of any shareholders or partners;

(6) The total of all funds available to the project are sufficient to accomplish the project; and

(7) Sufficient funds remain available in the Direct Loan Fund to fully fund the loan.

(d) As part of its approval, the department or its contractor may place conditions on a loan to insure that the requirements of this subchapter are met.

(e) If the written decision required by subsection (a) above is to deny the application, the written decision shall include an explanation of the reason for denial.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(e), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4-16-99 as an emergency; operative 4-16-99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10-13-99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-1-99 as an emergency; operative 10-13-99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by

2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8271. Legal Documents.

(a) As a condition of receiving a direct loan, a successful applicant shall be required to enter into a loan agreement with the department or its contractor. The loan agreement shall require the applicant to execute a promissory note in favor of the department or its contractor in the principal amount of the direct loan, and to provide the loan security documents specified in the loan agreement for the benefit of the department or its contractor. The promissory note shall provide that a default under the loan agreement shall be a default under the promissory note.

(b) The loan agreement shall contain the following terms and conditions:

(1) Interest rate of the loan;

(2) Term of the loan;

(3) Amortization schedule;

(4) Description of the project and a time frame for completion, and a provision that if the work is not completed by the completion date set forth in the construction contract, the loan will be in default unless an extension of time is given in writing by the department or its contractor;

(5) Description of security for the loan;

(6) Description of the documents to be provided by the applicant to secure repayment of the loan (e.g., promissory note, deed of trust, security agreement, fixture filing, UCC–1);

(7) A borrower covenant to require the borrower to maintain a current, valid child care license for the facility during the term of the direct loan;

(8) A borrower covenant that the borrower shall provide child care and development services of the priority type identified in the borrower's application at the facility for which the loan was made, unless the department has approved, in writing, provision of child care and development services of a different type, for the lesser of twenty (20) years or the term of the direct loan, unless the borrower is a family child care provider temporarily ceasing providing child are and development services and complying with section 8271(b)(10);

(9) A borrower covenant that the borrower shall notify the department or its contractor within fourteen (14) calendar days of the cessation of child care and development services in the facility for which the direct loan was made ("cessation notice");

(10) A borrower covenant for family child care provider borrowers only, that in the event the borrower: (i) ceases to provide services; (ii) retains its license; and (iii) intends to resume child care and development services, the cessation notice shall include: (i) the reasons for the interruption in services; and (ii) a date for resuming services. The borrower may amend the resumption of services date declared in the cessation notice by submitting an amended cessation notice to the lender and the department or its contractor. The covenant shall also include that any cessation of services exceeding three years from the date of the initial cessation notice shall constitute a default of the loan;

(11) A requirement that the borrower maintain appropriate insurance on the facility during the term of the direct loan naming the department or its contractor as an additional loss payee and in an amount sufficient to repay the direct loan;

(12) A list of the acts and omissions that shall constitute a default or breach under the loan agreement, and the department's or contractor's remedies in the event of default or breach. The submittal of information in support of an application for a direct loan which was or has become untrue, shall constitute a default or breach under the loan agreement and promissory note;

(13) A borrower covenant providing that, with the exception of a family child care provider temporarily ceasing to provide services in compliance with section 8271(b)(10), failure by the borrower to continue operation of the licensed facility assisted with the direct loan for child care and development shall constitute a default or breach under the loan agreement; and

(14) Any other terms or conditions required by the department or its contractor which are reasonably necessary to insure compliance of the particular facility and applicant with the requirements of this subchapter and to protect the interests of the State.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(e), 8277.6(b) and (g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

§ 8272. Fees.

If the department utilizes a contractor to administer the direct loan program, the department authorizes the contractor to charge the applicant the following fees:

(a) At the time of loan application, a nonrefundable application fee not to exceed two hundred fifty dollar ($250.00).

(b) At the time a direct loan is closed and funded, a loan origination fee not to exceed one percent (1%) of the principal amount of the direct loan.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Sections 8277.5(e)(3) and 8277.6(g), Education Code.

HISTORY

1. New section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2000, No. 9).
4. New section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

Article 5. Microenterprise Assistance Program

§ 8273. Purpose.

(a) The purpose of the microenterprise assistance program shall be to make child care facility assistance more efficiently and effectively available to family child care homes serving more than six (6) children by using intermediaries experienced in serving microenterprises. A family child care home provider serving more than six (6) children may apply for assistance under the guaranty program, the direct loan program and/or this microenterprise assistance program.

(b) The department shall set aside not more than fifteen percent (15%) from the allocation of funds to the Direct Loan Fund (the "Microenterprise Set Aside") for the purpose of funding the microenterprise assistance program.

NOTE: Authority cited: Section 8277.6(g), Education Code. Reference: Section 8277.6(h), Education Code.

HISTORY

1. New article 5 (section 8273) and section filed 4–16–99 as an emergency; operative 4–16–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–13–99 pursuant to Education Code section 8277.6 or emergency language will be repealed by operation of law on the following day.
2. New article 5 (section 8273) and section refiled 10–1–99 as an emergency; operative 10–13–99 (Register 99, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–10–2000 or emergency language will be repealed by operation of law on the following day.

3. Repeal of article 5 (section 8273) and section by operation of Government Code section 11346.1(g) (Register 2000, No. 9).

4. New article 5 (section 8273) and section filed 2–2–2001; operative 2–2–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 5).

Subchapter 19. Uniform Multifamily Regulations

§ 8300. Purpose and Scope.

(a) These regulations provide uniform standards and program rules for multifamily rental housing developments assisted by the Department of Housing and Community Development. When expressly incorporated by reference, some or all of the provisions of this Chapter shall apply to: the Joe Serna Junior Farmworker Grant (JSJFWHG) Program (Chapter 7, subchapter 3, commencing with Section 7200); the Multifamily Housing Program (MHP) (Chapter 7, subchapter 4, commencing with Section 7300); and the HOME Investment Partnerships (HOME) Program (Chapter 7, subchapter 17, commencing with Section 8200). These regulations interpret and make specific the following Health and Safety Code Division 31, Part 2 statutes applicable to these programs: Chapter 2 (commencing with Section 50517.5); Chapter 16 (commencing with Section 50896), and Chapter 6.7 (commencing with Section 50675).

(b) These regulations establish terms, conditions and procedures for funds awarded after the effective date of these regulations.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(2), 50675.1(c), 50675.11 and 50896.3(b), Health and Safety Code. Reference: 50517.5, 50675, 50896, 50896.1 and 50896.3, Health and Safety Code; and 24 CFR part 92.

HISTORY

1. New subchapter 19 (sections 8300–8316) and section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8301. Definitions.

The following definitions govern this subchapter.

(a) "Assisted Unit" means a Unit that is subject to the Program's rent and/or occupancy restrictions as a result of the financial assistance provided by the Program, as specified in the Regulatory Agreement.

(b) "CalHFA" means the California Housing Finance Agency.

(c) "Commercial Space" means any nonresidential space located in or on the property of a Rental Housing Development that is, or is proposed to be, rented or leased by the owner of the Project, the income from which shall be included in Operating Income.

(d) "CPI" means the Consumer Price Index for All Urban Consumers, West Region, All Items, as published by the Bureau of Labor Statistics, United States Department of Labor.

(e) "Debt Service Coverage Ratio" means the ratio of (1) Operating Income less the sum of Operating Expenses and required reserves to (2) debt service payments, excluding voluntary prepayments and non–mandatory debt service. In calculating Debt Service Coverage Ratio, the Department may include all Operating Income, and may exclude Operating Income that cannot be reasonably underwritten by lenders making amortized loans.

(f) "Department" means the Department of Housing and Community Development.

(g) "Developer Fee" means the same as the definition of that term in California Code of Regulations, Title 4, Section 10302.

(h) "Distributions" means the amount of cash or other benefits received from the operation of a Rental Housing Development and available to be distributed pursuant to Section 8314 to the Sponsor or any party having a beneficial interest in the Sponsor or the Project, after payment of all due and outstanding obligations incurred in connection with the Rental Housing Development. Distributions do not include payments for: deferred Developer Fee up to the limit set forth in Sections 8312, approved partnership and asset management fees, mandatory debt service, approved reserve accounts established to prevent tenant displacement resulting from the termination of rent subsidies, operations, maintenance, payments to required reserve accounts, land lease payments to parties that do not have a beneficial interest in the Sponsor entity, or payments for property management or other services as set forth in the Regulatory Agreement for the Rental Housing Development.

(i) "Eligible Households" for MHP means "eligible household" as defined in Section 7301, for HOME this term means the same as "low income families" as defined in 24 CFR 92.2, and for JSJFWHG this term means the same as "agricultural household" as defined in Section 7202.

(j) "Operating Expenses" means the amount approved by the Department that is necessary to pay for the recurring expenses of the Project, such as utilities, maintenance, management, taxes, licenses, and the cost of on–site supportive services coordination, but not including debt service, required reserve account deposits, or other supportive services costs.

(k) "Operating Income" means all income generated in connection with operation of the Rental Housing Development including rental income for Assisted Units and non–Assisted Units, rental income for Commercial Space, laundry and equipment rental fees, rental subsidy payments, and interest on any accounts, other than approved reserve accounts, related to the Rental Housing Development. "Operating Income" does not include security and equipment deposits, payments to the Sponsor for supportive services (except for funds applied towards the cost of on–site supportive service coordination), or tax benefits received by the Sponsor.

(l) "Program" means the Department funding program or programs providing assistance to the Project.

(m) "Project" means a Rental Housing Development, and includes the development, the construction or rehabilitation, and the operation thereof, and the financing structure and all agreements and documentation approved in connection therewith.

(n) "Regulatory Agreement" means the written agreement between the Department and the Sponsor that will be recorded as a lien on the Rental Housing Development to control the use and maintenance of the Project, including restricting the rent and occupancy of the Assisted Units.

(o) "Rental Housing Development" means a structure or set of structures with common financing, ownership, and management and which collectively contains 5 or more Units (except that HOME projects may contain fewer than 5 Units.). "Rental Housing Development" does not include any "health facility" as defined by Section 1250 of the Health and Safety Code or any "alcoholism or drug abuse recovery or treatment facility" as defined by Section 11834.02 of the Health and Safety Code. Where a Rental Housing Development is located on non–contiguous parcels, all of the parcels shall be governed by similar tenant selection criteria, serve similar tenant populations and have similar rent and income restrictions.

(p) "Restricted Unit" means any Assisted Unit and any Unit that is subject to Rent and occupancy restrictions that are comparable to those applicable to Assisted Units. Restricted Units include Units subject to a TCAC regulatory agreement, and all Units subject to similar long–term, low–income or occupancy restrictions imposed by other public agencies.

(q) "Rural Area" means the same as defined in Section 50199.21 of the Health and Safety Code.

(r) "Sponsor" means the legal entity or combination of legal entities with continuing control of the Rental Housing Development. Where the borrowing entity is or will be organized as a limited partnership, Sponsor includes the general partner or general partners who have effective control over the operation of the partnership, or, if the general partner is controlled by another entity, the controlling entity. Sponsor does not include the seller of the property to be developed as the Project, unless the seller will retain control of the Project for the period of time necessary to ensure Project feasibility as determined by the Department.

(s) "TCAC" means the California Tax Credit Allocation Committee.

(t) "Transitional Housing" means a Rental Housing Development operating under programmatic constraints that require the termination of assistance after a specified time or event, in no case less than 6 months

after initial occupancy, and the re-renting of the Assisted Unit to another eligible participant.

(u) "Unit" means a residential Unit that is used as a primary residence by its occupants, including efficiency Units, residential hotel units, and units used as Transitional Housing.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5, 50675, 50675.1(c), 50675.2 and 50896.1(a), Health and Safety Code; and 24 CFR part 92.

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8302. Restrictions on Demolition.

Proposed projects involving new construction and requiring the demolition of existing residential Units are eligible only if the number of bedrooms in the new Project is at least equal to the total number of bedrooms in the demolished structures. The new Units may exist on separate parcels provided all parcels are part of the same Rental Housing Development (with common ownership, financing and management).

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(a)(1), 50517.5(d)(3), 50675.4, 50675.7 and 50896.1(a), Health and Safety Code; and 24 CFR Section 92.353(a).

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8303. Site Control Requirements.

At the time of application, a sponsor must have site control of the of the proposed Project property, in the name of the Sponsor or an entity controlled by the Sponsor, by one of the following means:

(a) fee title;

(b) a leasehold interest on the Project property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit, prior to loan closing, compliance with all Program requirements, including compliance with Section 8316;

(c) an enforceable option to purchase or lease which shall extend through the anticipated date of the Program award as specified in the Notice of Funding Availability;

(d) a disposition and development agreement with a public agency;

(e) an agreement with a public agency that gives the Sponsor exclusive rights to negotiate with that agency for acquisition of the site, provided that the major terms of the acquisition have been agreed to by both parties; or

(f) a land sales contract, or other enforceable agreement for the acquisition of the property.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(d)(4)(A), 50675.6, 50675.7(c)(3) and 50896.1(a), Health and Safety Code; 42 U.S.C. Section 5304(b); and 24 CFR Section 92.35(a).

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8304. Unit Standards.

(a) Restricted Units shall not differ substantially in size or amenity level from non-Restricted Units with the same number of bedrooms, and Units shall not differ in size or amenity level on the basis of income-level restrictions. Restricted Units shall not be segregated from non-Restricted Units, and Units shall not be segregated from each other on the basis of income-level restrictions. Within these limits, Sponsors may change the designation of a particular Unit from Assisted to non-Assisted or from one income-restriction to another over time. For Projects involving rehabilitation or conversion, the Department may permit certain Units to be designated as exclusively market-rate Units where necessary for fiscal integrity and where all other Program requirements are satisfied.

(b) For the full loan term, the number, size, type, and amenity level of Assisted Units shall not be fewer than the number nor different from the size, type and amenity level described in the Regulatory Agreement.

(c) For projects assisted by MHP, the number of Assisted Units shall equal the number of Restricted Units to the extent allowed by the requirements of Article XXXIV of the California Constitution.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(d)(4)(A), 50517.5(d)(5), 50517.5(e)(2), 50675.1(c), 50675.2(b), 50675.7, 50675.8 and 50896.1(a), Health and Safety Code; and 24 CFR Sections 92.252(e) and 92.504(c).

HISTORY

1. New section filed 9-29-2003; operative 9-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8305. Tenant Selection.

(a) Sponsors shall select only Eligible Households as tenants of vacant Assisted Units, using procedures approved by the Department that include:

(1) reasonable criteria for selection or rejection of tenant applications which shall not discriminate in violation of any federal, state or local law governing discrimination, or any other arbitrary factor;

(2) prohibition of local residency requirements;

(3) prohibition of local residency preferences, except where accompanied by an equal preference for employment in the local area and applied to areas not smaller than municipal jurisdictions or recognized communities within unincorporated areas;

(4) tenant selection procedures that include the following components, and that are available to prospective tenants upon request:

(A) selection of tenants based on order of application, lottery or other reasonable method approved by the Department;

(B) notification to tenant applicants of eligibility for residency and, based on turnover history for Units in the Rental Housing Development, the approximate date when a Unit may be available;

(C) notification of tenant applicants who are found ineligible to occupy an Assisted Unit of their ineligibility and the reason for the ineligibility, and of their right to appeal this determination;

(D) maintenance of a waiting list of applicant households eligible to occupy Assisted Units and Units designated for various tenant income levels, which shall be made available to prospective tenants upon request;

(E) targeting specific special needs populations in accordance with the Regulatory Agreement and applicable laws; and

(F) affirmative fair housing marketing procedures as specified in the Affirmative Fair Housing Marketing Plan Compliance Regulations of the United States Department of Housing and Urban Development, (24) CFR part 200.620(a)-(c), or similar affirmative fair marketing housing plan as approved by the Department.

(b) Sponsors shall rent vacant units to households with no less than the number of people specified in the following schedule:

Unit Size	*Minimum Number of Persons in Household*
SRO	1
0-BR	1
1-BR	1
2-BR	2
3-BR	4
4-BR	6
5-BR	8

A Sponsor may assign tenant households to Units of sizes other than those indicated as appropriate in the table above if the Sponsor reasonably determines that special circumstances warrant such an assignment and the reasons are documented in the tenant's file. The Sponsor's determination is subject to approval by the Department. Through the Project's tenant selection or management plan, a sponsor may receive advance Department approval of categorical exceptions to the above schedule.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(a)(1), 50517.5(d)(3), 50517.5(d)(5), 50517.5(e)(2), 50675.1(c), 50675.8(a)(1) and 50896.1(a), Health and Safety Code; and 24 CFR Sections 92.303, 92.350 and 92.351.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8306. Tenant Recertification.

(a) The Sponsor shall annually recertify household size and income for Assisted Units.

(b) If at the time of recertification, a tenant's household size has changed and no longer meets the occupancy standards pursuant to the previous section, the Sponsor may require the tenant household to move to the next available appropriately sized Unit.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(a)(1), 50517.5(d)(3), 50517.5(d)(5), 50517.5(e)(2), 50675.1(c), 50675.8(a)(1) and 50896.1(a), Health and Safety Code, and 24 CFR Sections 92.303, 92.350 and 92.351.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8307. Rental Agreement and Grievance Procedure.

(a) All rental or occupancy agreements for Assisted Units are subject to Department approval and shall include:

(1) provisions requiring good cause for termination of tenancy. One or more of the following constitutes "good cause":

(A) failure by the tenant to maintain applicable eligibility requirements under the Program or other eligibility requirements as approved by the Department;

(B) material noncompliance by the tenant with the lease, including one or more substantial violations of the lease or habitual minor violations of the lease which:

(i) adversely affect the health and safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related Project facilities;

(ii) substantially interfere with the management, maintenance, or operation of the Rental Housing Development; or

(iii) result from the failure or refusal to pay, in a timely fashion, Rent or other permitted charges when due. Failure or refusal to pay in a timely fashion is a minor violation if payment is made during the 3–day notice period;

(C) material failure by the tenant to carry out obligations under federal, state or local law;

(D) subletting by the tenant of all or any portion of the Assisted Unit;

(E) any other action or conduct of the tenant constituting significant problems which can be reasonably resolved only by eviction of the tenant, provided that the Sponsor has previously notified the tenant that the conduct or action in question would be considered cause for eviction. Examples of action or conduct in this category include the refusal of a tenant, after written notice, to accept reasonable rules or any reasonable changes in the lease or the refusal to recertify income or household size; or

(F) for Transitional Housing, the end of the maximum term prescribed for tenant occupancy by the Program operated in a particular Transitional Housing Project.

(2) a provision requiring that the facts constituting the grounds for any eviction be set forth in the notice provided to the tenant pursuant to state law;

(3) notice of grievance procedures for hearing complaints of tenants and appeal of management action; and

(4) a requirement that the tenant annually recertify household income and size.

(b) The Sponsor shall adopt an appeal and grievance procedure to resolve grievances filed by tenants and appeals of actions taken by Sponsors with respect to tenants' occupancy in the Rental Housing Development, and prospective tenants' applications for occupancy. The Sponsor's appeal and grievance procedure shall be subject to Department approval and, at a minimum, shall include the following:

(1) a requirement for delivery to each tenant and applicant of a written copy of the appeal and grievance procedure;

(2) procedures for informal dispute resolution;

(3) a right to a hearing before an impartial body, which shall consist of one or more persons with the power to render a final decision on the appeal or grievance; and

(4) procedures for the conduct of an appeal or grievance hearing and the appointment of an impartial hearing body.

(c) Neither utilization of, nor participation in any of the appeal and grievance procedures shall constitute a waiver of or affect the rights of the tenant, prospective tenant, or Sponsor to a trial de novo or judicial review in any judicial proceeding which may thereafter be brought in the matter.

(d) This section shall not be construed to pre–empt or supercede requirements established by local government which further limit good cause for eviction.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(d)(3), 50517.5(d)(5), 50517.5(e)(2), 50675.8(a)(1), 50675.8(a)(2) and 50896.1(a), Health and Safety Code; and 24 CFR Sections 92.253 and 92.303.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8308. Operating Reserves.

The Sponsor shall establish an operating reserve for the purpose of defraying potential operating shortfalls arising from unforeseen circumstances, beyond the rent–up period.

(a) Withdrawals from the operating reserve shall require prior written approval of the Department. Should the Department fail to take action on a request for an eligible withdrawal from the operating reserve within 30 days from documented receipt of the request, that request shall be deemed approved.

(b) The initial deposit to the operating reserve shall be funded from development funding sources in an amount determined by the Department, which shall be not less than the total of the following: 4 months of projected Operating Expenses (excluding the cost of on–site supportive services coordination), 4 months of required replacement reserve deposits, and 4 months of non–contingent debt service. For projects with tax credits, the requirement shall be 3 months of these items. In setting the initial funding requirement, the Department shall consider factors including, but not limited to the projected level of Project cash flow, the adequacy of the operating budget, Project location, local market characteristics, the number of sites, and Project design.

(c) Sponsor shall fully replace any withdrawals from the Operating Reserve using available cash flow prior to use of any cash flow to pay deferred Developer Fee, partnership management or similar fees, or Distributions.

(d) Upon occurrence of both of the following events, the Department may reduce the required minimum balance: (i) operation at a debt service coverage ratio of 1.15 or greater for 5 years; and (ii) operation at an Operating Expense coverage ratio of 1.08, where Operating Expense ratio is defined to equal effective gross income, less required replacement reserve deposits and non–contingent debt service, divided by total Operating Expenses, not including the approved cost of supportive services coordination.

(e) The Department may agree with other financing sources to allocate authority regarding amounts deposited into or withdrawn from the Operating Reserve, where the Department determines that such arrangement would not jeopardize the fiscal integrity of the Project and the minimum reserve requirements would be maintained. For Projects subject to the HUD Section 811 and 202 programs or receiving a permanent loan from CalHFA, the Department may also defer to the operating reserve requirements of these agencies during the time such projects are regulated by HUD or CalHFA, and not require deposits in the amounts specified in subsection (b).

(f) Where all Project development funding sources are legally precluded from using their funds to capitalize the operating reserve as required by subsection (b), the Sponsor may fund this account out of Operating Income, provided that cash flow is sufficient to reasonably ensure that the required balance can be accumulated within six years of initial occupancy.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5, 50675.5(b)(8) and 50896.1(a), Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8309. Replacement Reserves.

The Sponsor shall establish a replacement reserve for the purpose of defraying the cost of infrequent major repairs and replacement of building components that are too costly to be absorbed by the Project's annual operating budget.

(a) Withdrawals from the replacement reserve shall require prior written approval of the Department. Should the Department fail to take action on a request for an eligible withdrawal from the replacement reserve within 30 days of documented receipt of the request, that request shall be deemed approved.

(b) The replacement reserve shall be funded from Operating Income or a combination of Operating Income and development sources

(1) For new construction or conversion Projects, the initial amount of annual deposits to the replacement reserve account shall be equal to at least 0.6% of estimated construction costs associated with structures in the Project, excluding construction contingency and general contractor profit, overhead and general requirements, unless the Department approves a different amount based on the results of a third–party a reserve study or other reliable indicators of the need for replacement reserve funds over the term of the Program loan.

(2) For rehabilitation Projects, the initial amount of annual deposits to the replacement reserve account shall be determined by the Department based on the results of a third–party physical needs assessment or other reliable indicators of the need for replacement reserve funds over the term of the Program loan.

(3) The Department may periodically adjust the amount of required deposits to the replacement reserve for a particular Project based on the results of reserve studies or other reliable indicators of the need for replacement reserve funds over time.

(4) The Department may agree with other financing sources to allocate authority regarding amounts deposited into or withdrawn from the replacement reserve, where the Department determines that such arrangement would not jeopardize the fiscal integrity of the Project and the minimum reserve requirements would be maintained. For Projects subject to the HUD Section 811 and 202 programs or receiving a permanent loan from CalHFA or the Rural Housing Service of the United States Department of Agriculture, the Department may also defer to the replacement reserve requirements of these agencies during the time such projects are regulated by HUD, CalHFA or the Rural Housing Service of the United States Department of Agriculture.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(d)(1), 50675.5(b)(8) and 50896.1(a), Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8310. Underwriting Standards.

In analyzing Project feasibility, the Department shall, at a minimum, utilize the following assumptions and criteria:

(a) Residential vacancy rates shall be assumed to be 5%, unless a different figure is required by another funding source (including TCAC) or supported by compelling market evidence.

(b) Vacancy rates for Commercial Space shall be assumed to be 50%.

(c) Total Operating Expenses (not including property taxes or the approved costs of on–site service coordination) shall not be less than those specifically listed in California Code of Regulations, Title 4, Section 10327 as minimum Operating Expenses (without the reduction allowed by those regulations for bond–financed projects). The Department may project higher Operating Expenses where warranted by the experience of comparable properties and particular building characteristics, such as the nature of the tenant population or the level of rehabilitation. Prior to loan closing, the Department may approve total Operating Expenses that are less than those specified in Section 10327, supra, only if the Project has an extraordinary design feature, such as its own electrical generation system, which results in a quantifiable operating cost savings as documented by a qualified third party.

(d) All Operating Expenses, including property management fees, shall be within the normal market range, as periodically determined by the Department in surveys or based on costs observed in its portfolio.

(e) The first year Debt Service Coverage Ratio shall not be:

(1) less than 1.10:1 or

(2) greater than 1.20:1, except where projected cash flow after debt service and required reserve deposits is equal to or less than 12 percent of operating expenses, or where a higher first year ratio is necessary to meet either the requirements of subsection (h) or CalHFA's standard underwriting requirements.

In applying the requirements of subsections (e)(1) and (e)(2), the annual MHP Program loan payment of 0.42% will be considered debt service. These requirement shall not apply to Projects funded under the HUD Section 811 and 202 programs.

(f) Balloon payments are not allowed on senior debt, and are allowed on junior debt during the term of the Program loan only where the Department determines that the balloon payment will not jeopardize project feasibility.

(g) Variable interest rate debt shall be underwritten at the ceiling interest rate, unless the Department determines that using a lower interest rate assumption will not jeopardize project feasibility.

(h) The Project must demonstrate a positive cash flow for 15 years, using income and expenses increase rate assumptions specified in California Code of Regulations, Title 4, Section 10327. If projected Project income includes rental assistance or operating subsidy payments under a renewable contract, the Department may assume that this contract will be renewed, where the renewal of the rental assistance or operating subsidy is likely.

(i) Reserved

(j) Where the Department is providing construction–period financing, the minimum budgeted construction contingency shall be 5 percent of construction costs for new construction projects and 10 percent of construction costs for rehabilitation and conversion projects.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(d)(2), 50517.5(e)(2), 50675.7(b)(3) and 50896.1(a), Health and Safety Code; and 24 CFR Section 92.252.

HISTORY

1. New section, including withdrawal from review of subsection (i), filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8311. Limits on Development Costs.

(a) Project development costs must be reasonable compared to development costs for other similar developments of modest design in the general area of the Project.

(b) Builder overhead, profit and general requirements shall be limited in accordance with California Code of Regulations, Title 4, Section 10327.

(c) Property acquisition prices shall not exceed appraised value, except where the increment above appraised value is fully covered by junior public agency financing that carries no mandatory debt service.

(d) Proposed Project sites shall not require site development work that is significantly more costly than that typical for other similar projects in the local market area, unless either:

(1) the proposed site acquisition cost together with the site development costs are less than the cost of a typical site together with typical site development costs in the Project's market area; or

(2) there are no other sites available in the market area with a lower combined cost.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(a)(1), 50517.5(c)(2), 50517.5(e)(2), 50675(a), 50675.4(b)(2), 50675.4(c)(1), 50675.5 and 50896.(1)(a), Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8312. Developer Fee.

(a) Developer Fee shall not exceed the amount calculated in accordance with subsections (1), (2) or (3) below, with the exception of LIHTC Projects which shall also be subject to subsection (b). The per unit amounts will be adjusted in thousand dollar increments in accordance with changes in the CPI when, following the year 2000, the CPI has indicated the next full thousand dollar increment has been reached.

(1) For new construction Projects and Projects where the contract for the rehabilitation work equals or exceeds $25,000 per unit:

(A) For the first 30 Units, $20,000 per Unit.

(B) For each Unit in excess of 30, $7,500 per Unit.

(2) For other Projects involving acquisition and rehabilitation where the contract amount for the rehabilitation work, excluding contractor profit and overhead, equals or exceeds $7,500 per Unit and is less that $25,000 per unit:

(A) For the first 30 Units, $9,000 per Unit.

(B) For each Unit in excess of 30, $4,500 per Unit.

(3) For all other Projects, $2,000 per Unit.

(b) For LIHTC Projects, Developer Fee payments shall not exceed the lesser of $1,200,000 or the maximum amount that may be included in eligible basis pursuant to California Code of Regulations, Title 4, Section 10327. If the Developer Fee limit established pursuant to this subsection exceeds that established in subsection (a) above, the difference shall be deferred and payable from operating cash flow pursuant to Section 8314(a)(1)(A).

(c) Deferred Developer Fee is payable out of cash flow pursuant to Section 8314. For LIHTC Projects, the amount of the deferred Developer Fee is also subject to the limits on deferred developer fee in the TCAC regulations and any applicable federal statutes or regulations.

(d) The dollar value of any capital contribution of funds or real property made by the Sponsor or an affiliate, as approved by the Department, for Project development costs shall increase the Developer Fee limit by the dollar value of the capital contribution.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(a)(1), 50517.5(c)(2), 50517.5(e)(2), 50675.5(b)(5), 50675.8(a)(5) and 50896.1(a), Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8313. Reserved.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8314. Use of Operating Cash Flow.

(a) Operating income remaining after payment of approved operating expenses, reserve deposits and mandatory debt service shall be applied in the following priority order:

(1) First, towards payment of any:

(A) approved deferred Developer Fee, pursuant to Section 8312; and

(B) asset management, partnership management and similar fees, to the extent such fees are specified under the terms of financing from a local public entity and reasonable in comparison to fees paid in other similar developments in the Department's portfolio. Where there is no standard specified under local public entity financing, or there is no local public entity financing, the Department shall allow the payment of asset management fees in an amount not to exceed $12,000 per year.

(2) Second, 50 percent to the Sponsor as Distributions and 50 percent to the Department as payments on the Program loan.

(A) If the terms of other public agencies' financing also require payments from remaining cash flow, the Department may agree to share what would otherwise be its 50 percent share of available cash flow with the public agencies in amounts proportional to the agencies' respective loan amounts.

(B) To be consistent with the terms of other public agency loans, the Department may agree to set the percentage payable to the Sponsor at an amount less than 50 percent.

(C) For projects with income from project–based Section 8 or similar project–based rental assistance that is not underwritten by other Project lenders, the Department may reduce the Sponsor's share to an amount equivalent to the amount they would receive if one of the other lender's loan amount was based on an income stream that included the income from the rental assistance.

(b) A Sponsor may not accumulate Distributions from year to year. A Sponsor may deposit all or a portion of permitted Distributions into a Project account for distribution in subsequent years. These future Distributions shall not reduce the otherwise permitted Distribution in those subsequent years.

(c) Payment of Distributions, deferred Developer Fee, asset management fees, partnership management and similar fees shall be permitted only after the Sponsor submits a complete annual report and operating budget, and the Department determines that the report and budget demonstrate compliance with all Program requirements for the applicable year. Circumstances under which no Distributions, deferred Developer Fee, asset management fees or partnership management and similar fees shall be paid include:

(1) when written notice of default has been issued by any entity with an equitable or beneficial interest in the Project;

(2) when the Department determines that the Sponsor has failed to comply with the Department's written notice of any reasonable requirement for proper maintenance or operation of the Rental Housing Development or use of Project income;

(3) if all currently required debt service, including mandatory payments on the Program loan, and Operating Expenses have not been paid;

(4) if the replacement reserve account, operating reserve account, or any other reserve accounts are not fully funded pursuant to Sections 8308 and 8309 and the Regulatory Agreement.

(d) Distributions attributed to income from Commercial Space and non–Restricted Units shall not be subject to limits pursuant to this section.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11, 50896.1(a) and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(a)(1), 50517.5(c)(2), 50517.5(e)(2), 50675.8(a)(5), 50896.1(a), Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8315. Subordination Policy.

(a) The Department may execute and cause to be recorded a subordination agreement subordinating the Department's lien so long as the subordination does not increase the Department's risk beyond that contemplated in the Program loan or grant commitment, as may be amended from time to time, and so long as the subordination would further the interest of the Program. However, and except for Projects assisted by the U.S. Department of Housing and Urban Development under the Section 811 or Section 202 programs, the Department shall not enter into a subordination agreement or other agreement that contains any of the following:

(1) Any limitation of, or condition on, the Department's exercise of its remedies including, but not limited issuing a notice of default based on a breach under the Department's loan documents, including a default based solely on a breach of the senior lienholder's documents.

(2) An agreement that the senior lienholder's acceptance of a deed in lieu of foreclosure would result in the senior lienholder taking title to the Rental Housing Development free and clear of the Department's lien(s).

(3) An agreement permitting any modification or supplement of the senior lienholder's lien without the prior written consent of the Department except an agreement that permits a senior lienholder to make advances to: (i) cure a default under a lien with a higher priority than the Department's lien; (ii) pay delinquent taxes on the security property; (iii) pay delinquent hazard or liability insurance premiums for the security property; or (iv) to protect the health and safety of the tenants.

(4) An agreement that would require the Department to undertake additional obligations to any party.

(b) The Department's lien shall not be subordinated to the liens of a local government lender unless the amount of the local government loans is more than twice the amount of the Department's total assistance to the Project (including both loans and grants).

(c) As used in this section:

(1) "Department's lien" means a deed of trust, regulatory agreement, or other agreement securing payment or performance under an award of Program funds that has been recorded in the office of the recorder of the county in which the Rental Housing Development is located.

(2) "Lien of a local government lender" means a recorded deed of trust or covenant running with the land that affects the maintenance, use, or occupancy of the Rental Housing Development.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11 and 50896.3(b), Health and Safety Code. Reference: 50517.5(d)(4)(D), 50675(e), 50675.1(b), 50675.6(d), 50896, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

§ 8316. Leasehold Security.

(a) In any Project where the Sponsor proposes to control the Project land through a long–term ground lease, either:

(1) the Regulatory Agreement and other Program documents shall be recorded against both the Sponsor's interest in the Project and the fee interest in the land, and the lease shall have a term remaining at the time of recordation at least equal to the term of the Program loan or grant; or

(2) if the Regulatory agreement and other Program documents are not recorded against the Project's fee interest, the ground lease shall be subject to the Department's approval, must not be subject to any other mortgages on the fee interest, and shall contain, or be amended to contain, provisions which:

(A) establish a remaining term of at least ninety (90) years from the date the Department documents are recorded, provided that the Department may accept a lesser term, not less than 65 years, when the lessor is a public agency;

(B) ensure the validity of the lien of the Program loan and/or grant documents on the lease;

(C) ensure that the lease permits the Project to satisfy all Program requirements and permit the Department to enforce the provisions of the Program loan and/or grant without restriction;

(D) expressly consent to the lessee's assignment of the lease to the Department without further consent of the lessor, and permit the Department, after acquisition of the leasehold property, to transfer or assign the lease to a third party without consent of the lessor.

(E) provide that the lessor does not have the right to terminate the lease or accelerate the rent upon lessee's breach without first giving the lessee and the Department reasonable notice and opportunity to cure within a reasonable period;

(F) provide that no termination, modification or amendment to any terms of the lease shall be effective without the written consent of the Department, and any attempt to take such actions would be void without the Department's consent;

(G) require that, in the event of destruction of any improvements on the land, neither the lessor nor the lessee shall terminate the lease if and so long as the lessee or Department pursues reconstruction of the improvements with reasonable diligence;

(H) provide that the Department shall not have any liability for the performance of any of the obligations of lessee under the lease until the Department has acquired the leasehold interest, and then only in accordance with the terms of the lease and only with respect to obligations that accrue during the Department's ownership of the leasehold interest;

(I) provide that neither the lessor nor the lessee, in the event of bankruptcy by either, will take the benefit of any provisions in the United States Bankruptcy Code that would cause the termination of the lease or otherwise render it unenforceable in accordance with its terms;

(J) provide that the leasehold interest will not merge into the fee in the event that the lessee acquires the reversionary interest in the Project; and

(K) provide that acquisition of the leasehold property by the Department will not result in a termination of the leasehold; and upon such event, obligate the lessor to enter into a new lease having a term at least as long as the term remaining on the lease prior to acquisition by the Department and on substantially the same terms and conditions.

(b) Where the lessee and lessor are related or affiliated parties, the Program loan and/or grant documents shall be recorded against both the Sponsor's interest in the Project and the fee interest in the land.

(c) The Department may modify or waive the requirements of subparagraph (a)(2) where the lessor is a public agency that demonstrates that it is prohibited by law from meeting the requirements and the Department determines that there remains adequate security for the Program loan.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11 and 50896.3(b), Health and Safety Code. Reference: 50517.5(d)(4)(A), 50675.7, 50896.1 and 50896.3, Health and Safety Code.

HISTORY

1. New section filed 9–29–2003; operative 9–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 40).

Subchapter 20. Federal Emergency Shelter Grants Program

§ 8400. Purpose and Scope.

(a) These regulations establish procedures for the State administration of federal funds from the Emergency Shelter Grants Program (the "ESG program") and establish policies and procedures for use of these funds to meet the purposes contained in Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. sections 11371–11378) (the "Act").

(b) The Act, and any amendments thereto, provide for State administration of the ESG program. These regulations set forth policies and procedures governing the administration of these funds as the Federal Emergency Shelter Grants Program (the "FESG program") within the California Department of Housing and Community Development (the Department"). In addition to these regulations, FESG program participants shall comply with the regulations applicable to the FESG program as indicated below and as set forth in 24 C.F.R. Part 58, and 24 C.F.R. Part 576. Additionally, nonprofit organizations funded by the FESG program shall comply with the requirements of 24 C.F.R. Part 84 as though they were Subrecipients pursuant to 24 C.F.R. Part 84. Also, Units of general local government funded by the FESG program shall comply with the requirements of 24 C.F.R. Part 85. In the event that Congress, the California Legislature, or the Department of Housing and Urban Development add or change any statutory or regulatory requirements concerning the use or administration of these funds, FESG program participants shall comply with such requirements.

(c) References to section numbers in the 8400 series in the following sections are references to these Federal Emergency Shelter Grants Program Regulations at 24 Cal Code Regulations, title 25, section 8400 et seq.

(d) In the event of a conflict between the State FESG Regulations and 24 C.F.R. Part 58, 24 C.F.R. Part 84, 24 C.F.R. Part 85, or the ESG regulations at 24 C.F.R. Part 576, the federal regulations shall prevail.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 42 U.S.C. Sections 11371–11378; 24 C.F.R. Part 58; 24 C.F.R. Part 84; 24 C.F.R. Part 85; and 24 C.F.R. Part 576.

HISTORY

1. New subchapter 20 (sections 8400–8421) and section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8401. Definitions.

In addition to the definitions found in 42 U.S.C. section 11371, and 24 C.F.R. section 576.3, the following definitions shall apply to this subchapter

"Area–Median Income" means the most recent applicable county median family income published by the Department in accordance with the U.S. Census Bureau standard.

"Available annual State FESG allocation" means the annual State FESG allocation from HUD less 4% for State Administration.

"CDBG" means Community Development Block Grant program

"Capital Development" means a Renovation, Major rehabilitation and/or Conversion project.

"Capital Development Contract" means a written agreement for a forgivable deferred loan, up to an amount specified in the applicable NOFA, made to defray costs of Renovation, Major rehabilitation, and Conversion for Emergency shelter or Transitional housing.

"City" is defined at 42 U.S.C. section 5302(a)(5).

"Client" is the person or household provided Client housing funded by an FESG Grant.

"Client housing" is the general term used in these regulations to describe Emergency shelter, Transitional housing, and other Eligible activities provided to the Client, including programs providing only Essential Services.

"Conversion" means a change in the use of a building to Emergency shelter or Transitional housing for the homeless, where the cost of Conversion and any Rehabilitation costs exceed 75 percent of the value of the building after Conversion.

"Day" means calendar day.

"Day Center" means a Facility or program whose primary purpose is to provide homeless persons temporary shelter during the day, as well as to offer a wide range of services to large numbers of homeless persons on any given day that may include, but is not limited to, food services, clothing services, employment services, case management services, and addiction recovery support services. Day Centers do not regularly provide overnight shelter accommodations. Day Centers do not include child care centers or outpatient medical treatment or recovery centers.

"Department" means the California Department of Housing and Community Development.

"Director" means the Director of the Department of Housing and Community Development.

"EHAP" is the acronym for the "Emergency Housing and Assistance program" established by Health and Safety Code section 50800, et seq.

"ESG" is the acronym for the Emergency Shelter Grants program administered by HUD.

"Eligible activities" mean those activities upon which FESG funds may be expended as described in section 8406.

"Eligible City" means a City that within the current federal fiscal year meets one of the following conditions: it is located within a county that is a Nonentitlement area pursuant to 42 U.S.C. 5302; it is a Metropolitan City that receives no federal ESG funds directly from HUD pursuant to 42 U.S.C. 11373; it is a City that is located within an Eligible county and that is not a Metropolitan City; or it is a City that is not a Metropolitan City and that is also not part of an agreement pursuant to 42 U.S.C. 5302 to receive Federal ESG, CDBG and HOME funds as part of the Urban County within which it is located.

"Eligible county" means a county that within the current federal fiscal year meets one of the following conditions: the county is not an Urban County pursuant to 42 U.S.C. 5302 (a) (6), or the county is an Urban County that is receiving no federal ESG funds directly from HUD pursuant to 42 U.S.C. 11373.

"Eligible organization" means a private nonprofit organization or a Unit of general local government, (Unit of general local government is defined at 24 C.F.R. section 576.3), located in or serving an Eligible City or county in the state of California that provides, or contracts with community organizations to provide, Emergency shelter, Transitional housing, and other Eligible activities

"Emergency shelter" means any facility, including but not limited to Day Centers and overnight shelter, whose primary purpose is to provide temporary shelter with support services for the homeless in general or for specific populations of the homeless. Emergency overnight shelter is limited to occupancy of six months or less by a homeless person and is not withheld due to a Client's inability to pay.

"Essential services" is defined under 24 C.F.R. section 576.3.

"FESG" means the Federal Emergency Shelter Grants Program, the ESG program administered at the State level by the Department of Housing and Community Development.

"Facility" means the physical location in which the program is being carried out. For purposes of this definition, a physical location includes the offices at which Homeless prevention activities are being carried out. See also the definition of Homeless prevention activities.

"Federal Emergency Shelter Grants Regulations" means those regulations at Cal Codes Regs., title 24, section 8400 et seq.

"Grant" means a grant of monies from the FESG program.

"Grant Administrative Expenses" means expenses necessary to administer the Grant, including costs to prepare ESG reports, communicate with Department staff, and pay the ESG share of a required audit. See Section 8406. Grant Administrative Expenses do not include the cost of carrying out Eligible activities under 24 C.F.R. section 576.21(a).

"Governing Board" — for nonprofit applicants this term includes board of directors; for county local government applicants this term includes county board of supervisors; for City local government applicants this term includes City council.

"HOME" means Home Investment Partnership program.

"Homeless" is defined under 42 U.S.C. 11302

"Homeless prevention activities" means activities or programs designed to prevent homelessness including short–term rental assistance, payment for utility assistance; mediation programs for landlord–tenant disputes, and other innovative programs designed to prevent homelessness. See Section 8407.

"HUD" means the U.S. Department of Housing and Urban Development.

"Major rehabilitation" means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

"Manufactured Housing" means mobile homes, trailers, and factory–built homes.

"Metropolitan City" is defined at 42 U.S.C. 5302(a)(4).

"New Programs" means programs that have been operating for less than two years from the date of the applicable NOFA, and that have not received either FESG or EHAP funds in the previous two funding rounds.

"NOFA" is the acronym for a "Notice of Funding Availability" described in Section 8403.

"Nonentitlement area" is defined at 42 U.S.C. 5302.

"Northern California Allocation Region" means all counties in the state north of San Luis Obispo, Kern, and San Bernardino counties with an individual county population of 200,000 or more, and that have within their individual county boundaries one or more Eligible cities.

"Obligated Funds" means that the entity awarded FESG funds has placed orders, awarded contracts, received services, or entered into similar transactions that require payment from the Grant. Obligated Funds include Grant amounts that a City or county awards to a nonprofit organiza-

tion by an award letter if the award letter requires payment from the Grant amount.

"Operations" means the category of FESG activities that includes shelter maintenance, operation, rent, repairs, security, fuel, equipment, insurance, utilities, food and furnishings.

"Rank" means the order of eligible applications for funding based only on the rating established pursuant to the applicable Grant selection criteria.

"Rating" means the process by which eligible applications are evaluated and given an overall numerical or relative value based on the numerical or relative value(s) assigned to each of the identified selection criteria described in the NOFA to which the applicant is responding.

"Renovation" means rehabilitation that involves costs of 75 percent or less of the value of the building before Rehabilitation.

"Residential Rental Assistance" means the payment of rent required at move-in, or rent in arrears under the terms and conditions set forth under section 8407.

"Rural County Allocation Region" means a group of counties with an individual county population of less than 200,000 and that have within their individual county boundaries one or more Eligible cities.

"Site" for purposes of Capital Development activities means a given parcel or contiguous parcel(s) of land developed, or to be developed, with Emergency shelter and/or Transitional housing. "Site" for purposes of activities that are not Capital Development activities means one or more Facilities where the program(s) is being carried out.

"Site Control" means the legal right to occupy and use the Site, as evidenced by such things as:

(1) a deed demonstrating ownership in fee title;

(2) a lease demonstrating a leasehold interest in the Site and its improvements for at least the term of the FESG Grant or forgivable deferred interest loan,

(3) a purchase/lease agreement, or

(4) Where FESG funds will be used for Capital Development activities, an enforceable option contract to purchase or lease which shall extend at least through the anticipated closing date of the FESG Capital Development loan.

(5) For rotating shelter programs, site control may include other evidence provided by the applicant granting permission to use the site(s). Such evidence must be submitted by the applicant and approved by the Department prior to the deadline for submission of the State FESG application stated in the applicable NOFA.

"Southern California Allocation Region" means the counties of San Luis Obispo, Kern, and San Bernardino as well as each county in the State to the south of San Luis Obispo, Kern and San Bernardino counties with an individual county population of 200,000 or more, and that have within their individual county boundaries one or more Eligible cities.

"State recipient" is the recipient of a Grant that enters into a Standard Agreement with the Department to provide specified Eligible activities.

"Subgrantee" means a Private nonprofit organization or Unit of general local government located in or serving an Eligible City or county that receives FESG funds through a subcontract it has with a Unit of general local government or other Private nonprofit organization that receives FESG funds from the Department.

"Standard Agreement" means the contract entered into by the Department and the FESG awardee setting forth the basic terms and conditions governing the award of FESG funds.

"Subrecipient" is defined at 24 C.F.R. section 84.2

"Temporary Housing" see section 8408 concerning vouchers.

"Transitional housing" means housing with supportive services that is limited to occupancy of up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible. Transitional housing can include housing that becomes permanent housing with supportive services at the end of the Standard Agreement.

"Urban County" is defined at 42 U.S.C. 5302(a)(6).

"Very-low income" means a combined household income not to exceed 50% of the Area Median Income, adjusted for household size.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 42 U.S.C. 5302; 42 U.S.C. 11371; 42 U.S.C. 11373; and 24 C.F.R. 576.3.

HISTORY

1. New section filed 7-14-2004; operative 8-13-2004 (Register 2004, No. 29).

§ 8402. Allocation of Funds.

(a) The Department shall take 4% of the State's annual allocation of FESG funds for Grant administration.

(b) Depending on the applications received, up to 5% of the annual FESG allocation shall be available to New Programs in Eligible cities and counties operated by Private nonprofit organizations and Units of general local government.

(1) To receive an award of FESG funds for a New Program, FESG funds must be used for an FESG-eligible housing or service activity that has been operating for less than two years from the date of the applicable NOFA and;

(2) The organization applying for the FESG funds must not have received either state FESG or EHAP funds in the previous two funding rounds.

(c) The remaining (91%) of the annual FESG allocation shall be divided between three regional and one general allocation on a competitive basis in accordance with the following.

(1) Programs in the Northern California Allocation Region shall receive approximately 33% of the annual FESG allocation. The product derived by applying the 33% multiplier shall be rounded to a dollar amount.

(2) Programs in the Southern California Allocation Region shall receive approximately 24% of the annual FESG allocation. The product derived by applying the 24% multiplier shall be rounded to a dollar amount.

(3) Programs in the Rural County Allocation Region shall receive approximately 19% of the annual FESG allocation. The product derived by applying the 19% multiplier shall be rounded to a dollar amount.

(4) The remaining 15% as well as any unawarded FESG funds from the above regional and New Program set-asides shall be considered the general allocation, and shall be awarded on a competitive basis to any remaining unfunded Eligible applications for Eligible activities in the order of their competitive statewide ranking until all FESG funds have been awarded subject to the requirements of section 8402, subdivisions (d) and (e) below and section 8411 subdivisions (f), (g) and (h) below.

(d) The Department shall specify in annual NOFAs, whether it will be accepting applications for one or two-year Grants or both.

(e) The Department shall specify in annual NOFAs the minimum and maximum Grant amounts per application. For one-year grants, the maximum grant amount per application shall not exceed 2% of the available annual State FESG allocation and shall be rounded to the nearest thousandth dollar. For two-year grants, the maximum grant amount per application shall not exceed 4% of the available annual State FESG allocation and shall be rounded to the nearest thousandth dollar.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Section 576.25.

HISTORY

1. New section filed 7-14-2004; operative 8-13-2004 (Register 2004, No. 29).

§ 8403. Notices of Funding Availability.

(a) A statewide NOFA is a document issued by the Department which notifies all interested persons of the following:

(1) That the FESG program has been allocated funds or expects to be allocated funds;

(2) The types and amounts of funds available to Eligible organizations located in or serving Eligible cities or Eligible counties for specified Eligible activities;

(3) That the FESG funds will be distributed to Eligible organizations through a competitive process;

(4) Whether one–year Grants, two–year Grants, or both will be accepted;

(5) The specified minimum and maximum Grant amount(s);

(6) The specified timeframes that apply to the application and Grant selection processes, including the deadline for filing of applications;

(7) That copies of the FESG governing statute and regulations can be obtained from a contact person whose name, address, telephone number, and electronic mail address are provided;

(8) Identification of the Eligible Cities and Eligible counties for which the Department shall accept applications for Grant awards pursuant to these regulations.

(9) The electronic mail address, street address, telephone number, and facsimile number of a contact person within the Department who can provide further information, and the application package; and

(10) The Grant selection criteria described in section 8411 below.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Section 576.25.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8404. Eligible Organizations.

(a) Only Eligible organizations submitting applications to provide Eligible activities will be considered for funding

(b) Except for applicants that apply as a New Program pursuant to Section 8402, as of the publication date of the Statewide NOFA, an applicant or State recipient shall have provided Client housing continuously each day throughout the prior twelve months or, for winter–only or summer–only shelter providers, each day throughout the region's prior winter or summer shelter season.

(c) An applicant or State recipient shall not provide Client housing in a manner which illegally discriminates in violation of applicable state and federal laws. Housing provided to selected subpopulations of homeless persons shall not be considered a form of arbitrary discrimination if:

(1) A state or federal law or regulation requires an FESG–funded facility to exclusively serve a select homeless subpopulation; or

(2) The nature of the physical facilities or the nature of the services provided reasonably necessitates restriction of the housing to a selected subpopulation consistent with federal and state fair housing law.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Section 576.25; Sections 11135 and 12955 et seq., Government Code; Section 51 et seq., Civil Code; *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142, 278 Cal.Rptr. 614; and 42 U.S.C. 3601 et seq.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8405. Eligible Applications.

(a) Eligible applications must:

(1) Be received by the deadline stated in the applicable NOFA;

(2) Be submitted to the address noted in the applicable NOFA;

(3) Be complete, subject to the requirements of subsections (b) and (c); and

(4) Contain a certification by the applicant that all information within the application is true, complete, and accurate.

(b) A complete application shall consist of the following:

(1) An authorizing resolution by the applicant's Governing Board;

(2) For applications requesting funds for Emergency shelter or Transitional housing, evidence of site control;

(3) Pursuant to 42 U.S.C. section 11373(c), Private nonprofit organizations must obtain a Certification of Local Government Approval to undertake all FESG–funded activities;

(A) Private nonprofit organizations whose Client housing is provided in an Eligible City must obtain a Certification of Local Approval from that City to carry out all FESG activities;

(B) Private nonprofit organizations whose Client housing is provided in an unincorporated area of a Eligible county must obtain a Certification of Local Government Approval from that Eligible county to carry out all FESG activities;

(4) Documentation of satisfactory match pursuant to the requirements of Section 8410;

(5) A fully completed application accompanied by all applicable attachments, certifications, and any additional information requested in the applicable NOFA; and

(6) Any other information the Department or HUD requires to determine the eligibility of the applicant and the proposed activities, to evaluate or rate and rank the application, or to confirm that the applicant is capable of successfully completing all activities.

(7) A response to all of the Grant selection criteria as set forth in Section 8411.

(c) The State reserves the right to request clarification of unclear or ambiguous statements made in the application and other supporting documents where doing so will not impact the neutral evaluation of the application.

(d) The Department may request that an applicant revise application documents as necessary to establish threshold compliance as long as such revisions do not alter competitive scoring. This includes, but is not limited to, adjustments made to the amount of funding requested in order to conform to the monetary funding limits prescribed by 42 U.S.C. section 11374, 24 C.F.R. section 576.21, and section 8406 of these regulations.

(e) Notwithstanding any other provision of this section, in instances where an application ranks high enough to be funded but there is information missing from the application, the Department may request submission of information that was omitted from the application if such information existed prior to the application deadline, and the submission of information is necessary for application completeness but does not alter competitive scoring. This may include information such as evidence of an applicant's status as a unit of general local government or as a private nonprofit organization.

(f) All or a portion of an application can be denied because:

(1) The State is unable to reasonably determine what the applicant is proposing.

(2) The application is incomplete.

(3) The applicant or the proposed activities are determined to be ineligible.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 42 U.S.C. Sections 11373–11375; 24 C.F.R. Sections 576.21 and 576.25.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8406. General Program Requirements.

(a) FESG funds shall only be used for Eligible activities that comply with the following.

(1) FESG funds shall be used for any of the eligible uses of funds as set forth in 42 U.S.C. section 11374 and 24 C.F.R. section 576.21 subject to the following general FESG requirements. Definitions of pertinent terms are also included in 24 C.F.R. section 576.3 and 42 U.S.C. section 11371.

(A) The maximum time period in which all FESG funds must be spent shall be 24 months.

(B) Up to 1% of an FESG Grant may be used for costs associated with Grant administration.

(C) The 10% limitation on staff costs set forth in 24 C.F.R. section 576.21(a)(3) applies only to supervisory staff costs within the Operations funding category.

(D) FESG funds used for Major rehabilitation and Conversion activities are subject to the continued use requirements of 42 U.S.C. section 11375(c)(1)(A).

(E) FESG funds used for Rehabilitation activities are subject to the continued use requirements of 42 U.S.C. section 11375(c)(1)(B).

(F) FESG funds used for Essential services, maintenance, operations, insurance, utilities, and furnishings are subject to the continued use requirements of 42 U.S.C. section 11375(c)(1)(C).

(G) An applicant or a State recipient providing Client housing shall establish rules for Client participation which shall:

1. Include a statement of the maximum consecutive number of days during which a Client is eligible to participate in the Client housing;

2. Include a description of the program's disability-related policies, including the process for a Client to request a reasonable accommodation to a program policy, practice, or requirement because of the Client's disability or perceived disability, and the process for a Client to file a disability related grievance.

3. Include the policy for termination from the Client housing, and the process for Client appeal of that termination;

4. Be conspicuously posted at the housing facility, or given to recipients of Homeless Prevention funds, where applicable.

(H) An applicant or a State recipient providing Client housing shall have a process for program evaluation.

(I) Notwithstanding the provisions of Section 8406 subdivision (b)(1)(B), a State recipient may accept payment vouchers provided through any other public or private program for Clients in Emergency shelters so long as no shelter beds are reserved beyond sundown for that purpose.

(J) An applicant proposing to provide, or a State recipient providing, Transitional housing, may charge rent only if a minimum of ten percent of all rent collected for each Client is reserved to assist that Client in moving to permanent housing subject to the following:

1. The reserve of rent for each Client must be accounted for separately;

2. If rent reserved for a Client remains unused due to the absence of the Client for a year or more, the monies shall be used to assist another Client in moving to permanent housing; and

3. the rent and any service fees charged are limited to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons.

4. An applicant or State recipient can request from the Department a waiver of the 10% requirement set forth above where the applicant or State recipient has demonstrated to the Department's satisfaction that its program is funded to provide assistance to all Clients when they move to permanent housing, and that this assistance is funded from sources other than State FESG funds. This assistance can include such things as: assistance with security deposit, first/last month's rent, or household items. Such individual assistance provided to a Client must equal at least 10% of all the rent collected from that Client.

(K) An applicant proposing to provide, or a State recipient providing Transitional housing, shall demonstrate that the housing meets all of the following tests:

1. Occupancy is limited to a maximum of two years;

2. Every Client is offered at least three types of self-sufficiency development services such as job counseling or instruction, personal budgeting or home economics instruction, tenant skills instruction, landlord/tenant law, victim's rights counseling, or apartment search skills instruction;

3. Every Client is required to participate in at least one self-sufficiency development service offered by the Client housing provider as a condition of receiving Client housing;

4. Pursuant to section 8406 subdivision (a)(1)(J), accumulated rent reserve funds from Clients are applied to first and last-months rent and/or a security deposit for permanent housing; and

5. Every Client is provided referrals to permanent housing.

(L) Pursuant to 24 C.F.R. 576.21(a)(3), in-house telephone use by Clients of an Emergency shelter or Transitional housing facility is an eligible operations expense.

(M) Use of FESG funds for Homeless prevention activities must meet the requirements of Section 8407.

(N) Use of FESG funds to lease or rent rooms with vouchers must meet the requirements of Section 8408.

(O) Use of FESG funds for Renovation, Major rehabilitation, or Conversion must meet the requirements of Section 8409.

(b) FESG funds shall not be used for facilities or activities that do not comply with the following.

(1) FESG funds shall not be used for costs associated with activities in violation of any law, or for the following:

(A) The purchase of radios, televisions, and other appliances or equipment for recreational purposes;

(B) Facilities in which occupancy fees are charged to Clients of Emergency shelters;

(C) Off-site costs, special requirements, assessments, or anything more than is directly necessary for the development of Emergency shelter or Transitional housing;

(D) On-site improvements or other expenses beyond those directly necessary for the development or operation of Emergency shelter or Transitional housing (e.g., retaining walls, fencing, storage sheds, shade structures, playground equipment, parking lots, and landscaping);

(E) Temporary Housing for minor children separated from their families due to a court order or an administrative order;

(F) Acquisition

(G) New construction activities;

(H) Predevelopment activities;

(I) Property clearance or demolition;

(J) Services to persons who are not homeless, except when providing Homeless prevention activities in accordance with Section 8407;

(K) Telephone Hotline costs;

(L) Staff recruitment or training;

(M) Costs associated with advocacy, planning, or fundraising;

(N) Administrative costs not permitted under Section 8406(a)(1)(B) and Section 8406(a)(1)(C);

(O) Activities determined by the Department to be an ineligible, inefficient, or ineffective use of Grant funds as stated in the applicable NOFA.

(2) An applicant or a State recipient shall not require, as a condition of Client housing, participation by Clients in any religious or philosophical ritual, service, meeting, or rite.

(3) Any buildings for which FESG funds are used for Conversion, Major rehabilitation, or Renovation must meet the requirements of 24 C.F.R. section 576.55, including required compliance with local government safety and sanitation standards.

(4) An applicant or a State recipient shall not provide Client housing in a structure which contains any of the conditions of a substandard building listed in section 17920.3 of the Health and Safety Code, and shall comply with all applicable State and local construction, maintenance, and occupancy standards.

(5) An applicant or a State recipient providing Emergency shelter to Clients shall not:

(A) Condition the provision of Emergency shelter on the receipt of public or private payment vouchers or cash payment from the Client; or

(B) Deny shelter or services to any Client due to the inability to pay.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 42 U.S.C. Section 11371; 42 U.S.C. Sections 11374–11375; 24 C.F.R. Sections 576.3, 576.21, 576.23, 576.35, 576.55 and 576.61; and Section 17920.3, Health and Safety Code.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8407. Homeless Prevention Activities.

(a) Use of FESG funds for Homeless prevention activities must meet the requirements of 42 U.S.C. 11374(a)(4) and 24 C.F.R. 576.21(a)(4).

(b) Pursuant to 42 U.S.C. section 11374, not more than 30% of the annual State FESG allocation may be used for Homeless prevention activities.

(c) The following additional requirements apply to the use of FESG funds to provide Residential Rental Assistance.

(1) The payment of rent in arrears shall not exceed one month's rent plus a reasonable late charge. FESG funds shall be used only if:

(A) The Client is unable to pay the rent in arrears due to a sudden reduction in income, and has received an eviction notice;

(B) No other resources or assistance are available to pay the rent in arrears;

(C) The Client has not received more than one payment for rent arrears for the past two years from any other source; and

(D) There is a reasonable prospect that the Client will be able to resume rent payments on their own within a reasonable period of time.

(2) The payment of initial rent shall consist of no more than the first month's rent or the last month's rent, or both if required as a condition of occupancy of permanent housing. FESG funds shall be used only if:

(A) No other resources or assistance are available to pay the initial rent;

(B) The Client has not received more than one payment of initial rent in the immediate past two years from any other source; and

(C) There is a reasonable prospect that the Client will be able to make rent payments on their own within a reasonable period of time.

(3) FESG funds to be used for Residential Rental Assistance shall be accounted for separately.

(4) Consistent with the requirements in 24 C.F.R. 576.63, and 24 C.F.R. Parts 84, and 85, interest earned on FESG funds set aside for rental assistance shall be returned to the Department for return to HUD.

(5) Prior to providing Residential Rental Assistance, the State recipient shall verify that:

(A) The Client is eligible to participate in the program and has income sufficient to pay the monthly rent once the Residential Rental Assistance terminates; and

(B) An appropriately sized and priced rental unit is available and suitable for occupancy by the Client.

(6) The Client shall not have direct use of FESG funds. FESG funds shall be distributed directly from the State recipient or Subgrantee to the landlord for the benefit of the Client.

(7) A State recipient providing Residential Rental Assistance shall do all of the following:

(A) make determinations regarding the eligibility of Clients based upon a written application from the Client in order to determine the Client's need for the assistance, and the Client's ability to remain permanently housed once the assistance is provided;

(B) provide information to Clients regarding the landlord–tenant relationship, the appropriate treatment of rental property, appropriate behavior within the neighborhood, the importance of timely rental payments; and

(C) provide staff that shall be reasonably available to landlords and tenants to answer questions or complaints about Residential Rental Assistance.

(d) The following additional requirements apply to the use of FESG funds to provide utility assistance:

(1) A State recipient providing utility assistance shall make determinations regarding the eligibility of Clients based upon a written application from the Client in order to determine the Client's need for the assistance, and the Client's ability to remain permanently housed once the assistance is provided

(2) The payment of utility assistance shall not exceed three months past due utility payments plus a reasonable late charge. FESG funds shall be used only if:

(A) The Client is unable to pay the utility costs in arrears due to a sudden reduction in income and has received a notice of termination of utility services;

(B) No other resources or assistance are available to pay the utility costs in arrears;

(C) The Client has not received more than one payment of utility assistance in the immediate past two years from any other source; and

(D) There is a reasonable prospect that the Client will be able to make utility payments on their own within a reasonable period of time.

(3) FESG funds to be used for utility assistance shall be accounted for separately.

(4) Consistent with the requirements in 24 C.F.R. 576.63, and 24 C.F.R. Parts 84, and 85, interest earned on FESG funds set aside for utility assistance shall be returned to the Department for return to HUD.

(5) The Client shall not have direct use of FESG funds. FESG funds shall be distributed directly from the State recipient or Subgrantee to the utility company for the benefit of the Client.

(e) State recipients may use FESG funds to provide up to three months of initial rent and/or utility assistance to individuals whose income does not exceed 50% of the Area Median Income and who are discharged from publicly funded institutions or systems of care, such as health care facilities, foster care facilities, other youth facilities, or corrections programs and institutions.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 42 U.S.C. Section 11374; 24 C.F.R. Parts 84 and 85; and 24 C.F.R. Sections 576.21 and 576.63.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8408. Leasing or Renting Rooms with Vouchers.

The following requirements apply to the use of FESG funds to provide vouchers to lease or rent Temporary Housing for Clients.

(a) Eligible Temporary Housing includes apartments, motel rooms, hotel rooms, rental rooms in single–room occupancy housing, single–family homes, and manufactured housing.

(b) Vouchers for Temporary Housing may also be used to pay rental fees for spaces at a Special occupancy park which is defined by section 18862.43 of the Health and Safety Code as a recreational vehicle park, temporary recreational vehicle park, incidental camping area, or tent camp.

(c) Payment of rent must be at a rate that is reasonable based on local market conditions. Rent charged to voucher holders shall not exceed market rent for comparably sized units or spaces.

(d) Vouchers must only be used for Temporary Housing located in an Eligible City that is in the county in which the FESG funds have been awarded, or in an unincorporated area of the Eligible county in which the funds have been awarded.

(e) Temporary housing financed with vouchers is limited to occupancy of six months or less by a homeless person or household.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: Section 18216.1, Health and Safety Code; and 24 C.F.R. Section 576.21.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8409. Renovation, Conversion, and Major Rehabilitation.

(a) Grants for Renovation, Conversion or Major rehabilitation activities pursuant to 24 C.F.R. 576.21(a)(1) cannot exceed the amount specified in the applicable NOFA.

(b) Eligible costs for Renovation, Conversion, and Major rehabilitation include, but are not limited to, costs for local government fees, and materials and labor costs.

(c) Costs set forth under Section 8406(b) are ineligible.

(d) FESG funds for Renovation, Conversion, or Major rehabilitation activities shall be in the form of a forgivable deferred loan.

(e) The term of a Renovation, Conversion, or Major rehabilitation Standard Agreement is 24 months from the effective date of the contract.

(f) A Renovation, Conversion, or Major rehabilitation project shall be deemed feasible when an evaluation by the Department demonstrates all of the following.

(1) The project's legal status, finances, projected cash flow, technical feasibility, and the accuracy of the project's construction schedule demonstrate the probability of successful completion of the project.

(2) The project's design and materials and the proposed labor needs and costs demonstrate that the project excludes non–essential materials or a luxury design.

(3) The applicant's site control demonstrates that the project will be completed and operated without jeopardizing the Department's security interest for at least the applicable period of continued use pursuant to 42 U.S.C. 11375(c).

(4) The proposed construction schedule corresponds with the scope of the project and demonstrates that the construction shall be completed within the term of the Standard Agreement.

(5) The development team proposed for the project has the experience and ability to efficiently and successfully complete and operate the project as proposed.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 42 U.S.C. Section 11375; 24 C.F.R. Sections 576.21 and 576.35.

HISTORY

1. New section filed 7-14-2004; operative 8-13-2004 (Register 2004, No. 29).

§ 8410. Match Requirements.

(a) Pursuant to 42 U.S.C. 11375, the Department will provide HUD with annual documentation of the sources and amounts of matching funds required of the Department as a recipient of ESG funds.

(b) Pursuant to subdivision (a), the Department may satisfy HUD's matching requirement, by submitting documentation to HUD of available State funding for the homeless.

(c) Pursuant to subdivision (a), the Department will set forth in the applicable FESG NOFA any requirement of FESG applicants to provide documentation of matching funds.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 42 U.S.C. Section 11375.

HISTORY

1. New section filed 7-14-2004; operative 8-13-2004 (Register 2004, No. 29).

§ 8411. Grant Selection Process.

(a) A Grant selection process shall involve eligible and complete applications received by the Department in response to the applicable NOFA.

(b) Each of the following criteria is Grant selection criteria that shall be included in the statewide NOFA. For applications requesting funds for multiple programs, each program will receive a separate score for each rating factor, and the point scores will be averaged to calculate a final point score for each rating factor.

(1) Applicant Capability 300 points

The applicant's capability of achieving the activities and results proposed in the application will be evaluated based on the rating factors listed in this section. Each rating factor will correspond to specific application questions. The total number of points available for each rating factor is also listed. The point scores awarded to each application for each application question will depend on the relative merit of the individual answer to each question.

(A) The number of years the applicant has been providing housing and services for the homeless;

30 points

(B) Whether the applicant has experience operating the proposed program, or a program similar to the proposed program;

30 points

(C) The process utilized by the organization to evaluate the program. Points will be awarded for this factor based on the frequency of evaluation, the degree of involvement of Clients and staff in the evaluation process, and the impact of the evaluation process on the program. Applicants that provide supporting documentation of their evaluation process and outcomes will receive more points for this rating factor.

30 points

(D) The applicant's experience administering other federal housing grants including, but not limited to, other FESG Grants;

30 points

(E) The relative number of years of experience working in the program or other related experience as determined by the Department possessed by the key staff of the program, (executive director, manager/supervisor, counselors/case managers). The total number of years of experience of key staff will be divided by the total number of key staff to calculate the relative number of years of experience. Related experience outside of the program must be described in order for the Department to consider awarding points for related experience.

60 points

(F) The proposed ratio of staff to Clients. Applicants with a higher staff to Client ratio will receive more points for this rating factor.

60 points

(G) Whether the applicant has any unresolved monitoring findings or concerns from FESG Grants awarded in no more than the previous four years;

20 points

(H) Whether the applicant has submitted required reports in a timely manner for FESG Grants awarded in no more than the previous four years;

20 points

(I) Whether the applicant has obligated and expended funds in a timely manner for FESG Grants awarded in no more than the previous four years.

20 points

(2) Need for Funds — 100 points

The need for FESG funds will be evaluated based on the rating factors listed in this section. Each rating factor will correspond to specific application questions. The total number of points available for each rating factor is also listed. The point scores awarded to each application for each application question will depend on the relative merit of the individual answer to each question

(A) The applicant's need for FESG funds when comparing the percentage of FESG funds to other sources of funding in the applicant's proposed program budget. Applicants with the highest percentage of FESG funds compared to other sources of funding in the proposed program budget will receive more points for this rating factor.

50 points

(B) Depending on the type of Client housing proposed for funding, the relative level of need for that housing type. Applicants whose Client housing type addresses higher needs as certified by a county-wide coordinating body or agency of county government specifically dealing with the issue of homelessness will receive more points for this rating factor. The certifying entity must also meet the conflict of interest provisions set forth in 24 C.F.R. 576.57(d). The Department may specify in the NOFA what local entities may be certifying entities.

50 points

(3) Impact and Effectiveness of the Client Housing — 250 points

The impact and effectiveness of the Client housing provided and proposed to be provided by the applicant will be evaluated based on the rating factors listed in this section. Each rating factor will correspond to specific application questions. The total number of points available for each rating factor is also listed. The point scores awarded to each application for each application question will depend on the relative merit of the individual answer to each question. For subsection (b)(3)(B) through subsection (b)(3)(E), the Department may require applicants to submit documentation to verify the accuracy of their placement rates.

(A) The number of services offered to homeless persons by the program, including services offered through direct referral of program Clients to other agencies that provide services not directly available through the program, and the accessibility of these services. Accessibility of services means transportation to off-site services based on the needs of the individual Client, accommodations for Clients with disabilities, and services that address the linguistic needs of the Clients. Applicants must also explain how they will provide Client access to services when barriers to accessibility as set forth in this subdivision do exist. Applications that demonstrate the accessibility of program services as set forth in this subdivision will receive more points than applications that do not demonstrate service accessibility. To receive points for services offered through direct referral of program Clients to other agencies, applicants must pro-

vide documentation substantiating an arrangement between the program and the other agencies to provide services to program Clients.

60 points

(B) In the last twelve months, the percentage of Clients who have exited the program and moved into permanent, transitional, or emergency housing, (overall placement rate).

For this rating factor, Homeless prevention programs will be compared with one another, Transitional housing programs will be compared with one another, overnight Emergency shelter programs will be compared with one another, Temporary Housing voucher programs will be compared with one another, Day Center programs will be compared with one another, and other FESG-eligible non-housing programs will be compared with one another.

60 points

(C) In the last 12 months, the percentage of Clients who as a result of their participation in the program have obtained or retained employment.

For this rating factor, Homeless prevention programs will be compared with one another, Transitional housing programs will be compared with one another, overnight Emergency shelter programs will be compared with one another, Temporary Housing voucher programs will be compared with one another, Day Center programs will be compared with one another, and other FESG-eligible non-housing programs will be compared with one another.

30 points

(D) In the last 12 months, the percentage of Clients who as a result of their participation in the program have obtained other income such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or county general assistance;

For this rating factor, Homeless prevention programs will be compared with one another, Transitional housing programs will be compared with one another, overnight Emergency shelter programs will be compared with one another, Temporary Housing voucher programs will be compared with one another, Day Center programs will be compared with one another, and other FESG-eligible non-housing programs will be compared with one another.

30 points

(E) In the last 12 months, the percentage of Clients who as a result of their participation in the program have stabilized a mental illness or chemical addiction for a minimum of 90 days if the program is a Transitional housing program, or for a minimum of 30 days for all other programs.

For this rating factor, Homeless prevention programs will be compared with one another, Transitional housing programs will be compared with one another, overnight Emergency shelter programs will be compared with one another, Temporary Housing voucher programs will be compared with one another, Day Center programs will be compared with one another, and other FESG-eligible non-housing programs will be compared with one another.

30 points

(F) The applicant is a participant in a local planning process for the community-wide continuum of care, EHAP Local Emergency Shelter Strategy (LESS), or other homeless housing and supportive services plan, as evidenced by documentation from this planning process.

40 points

(4) Cost Efficiency — 100 points

The Cost efficiency of the proposed use of FESG funds for Client housing will be based on the rating factors listed in this subdivision. Each rating factor will correspond to specific application questions. The total number of points available for each rating factor is also listed. The point scores awarded to each application for each application question will depend on the relative merit of the individual answer to each question. For each rating factor in this subdivision, the Department may require applicants to submit documentation to verify the accuracy of the information provided by the applicant.

(A) The relative cost efficiency of the proposed use of FESG funds as measured by the following factors, where applicable.

60 points

1. The cost per bed per month when comparing overnight Emergency shelter programs with one another. The Department will examine the total Emergency shelter budget, with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services; or

2. The cost per bed per month when comparing Transitional housing programs with one another. The Department will examine the total Transitional housing budget with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services; or

3. The cost per bed per month when comparing Temporary Housing voucher programs with one another. The Department will examine the total voucher program budget with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services; or

4. The cost per household served per month when comparing Homeless prevention programs, with one another. The Department will examine the total Homeless Prevention program budget, with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services; or

5. The cost per household served per month when comparing Day Center programs with one another. The Department will examine the total Day Center budget, with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services; or

6. The cost per household served per month when comparing other FESG-eligible non-housing programs with one another. The Department will examine the total program budget with the exception of costs that qualify as Essential Services costs, regardless of whether FESG funds are being requested for Essential Services.

(B) The applicant's level of coordination with other organizations to operate the program as demonstrated by such things as: coordination of service delivery with other providers of housing or services to the homeless, use of volunteers, use of in-kind donations, use of client and community educational programs, and participation in coalitions. In evaluating this rating factor, the Department may ask the applicant to provide up to three letters from collaborating organizations which describe their collaborative relationship with the applicant.

40 points

(5) State Objectives — 35 points

The Department may award each application up to 35 points for addressing one or more State Objectives as identified in the annual FESG NOFA. The Department's selection of State Objectives for inclusion in the annual NOFA shall be based on one or more of the issue areas listed in this section. The point scores awarded to each application for the State Objectives selected in any given year will depend on the relative merit of the individual answers to the State Objective questions. In no instance shall the total amount of State Objective points available in any given year exceed 5% of the total amount of points available under Section 8411(b)

(A) Imbalance in the types of programs funded in prior years, such as Emergency shelters versus Transitional housing;

(B) Federal funding priorities as publicly announced by HUD;

(C) State funding priorities as publicly announced by the Governor;

(D) Housing and community development needs or objectives as identified in the Department's annual consolidated plan required by HUD.

(6) Total Possible — 785 Points

(c) Applications for the New Programs set-aside and three regional set-asides shall be separately rated by group and then ranked in descending order within their groups.

(d) FESG funds will be awarded to Eligible organizations in descending rank order for the amount requested in the corresponding eligible application, subject to the Department's limitations on certain Eligible activities including the limitations applicable to Essential Services and efforts to prevent homelessness at 42 U.S.C. subdivisions 11374(a)(2)(B) and 11374(a)(4) respectively, or for a revised amount pursuant to section 8405 subdivision (d), until the remaining funds in each set–aside are insufficient to fully fund the next highest ranked application(s).

(e) Any FESG funds remaining in the New Programs or regional set–asides shall be made available for distribution by general competition pursuant to section 8402 subdivision (c)(4).

(f) Among the applications competing for the general competition funds, FESG funds will be awarded to Eligible organizations in descending rank order for the amount requested in the corresponding eligible application, subject to the Department's limitations on certain Eligible activities including the limitations applicable to Essential Services and efforts to prevent homelessness at 42 U.S.C. subdivisions 11374(a)(2)(B) and 11374(a)(4) respectively, or for a revised amount pursuant to section 8405 subdivision (d).

(g) When there are insufficient funds to fully fund the next highest ranked unfunded application, this application shall be partially funded if the funded activities can be adequately carried out with the remaining FESG allocation.

(h) Within each of the set–asides set forth in section 8402, subdivisions (b) and (c) in the event of a tie for applicants in the lowest–ranked position to be funded, before continuing the award process the Department will break the tie among the applicants by awarding funds from the set–aside to the applicant who scored the most points overall in the Cost Efficiency rating category.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Section 576.25.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8412. State Recipient Contract Requirements.

(a) Following a Grant award, the Department shall enter into a written contract directly with the State recipient. The contract shall be known as the "Standard Agreement" and shall include the items specified in this section.

(1) A clear and accurate identification of the State recipient and the Department;

(2) The timeframe for the performance of the approved project activities;

(3) The amount of the Grant, clearly expressed as the maximum amount; the basis upon which payment is to be made; and the process by which the State recipient must request payment;

(4) A clear and complete statement of the activities and services the State recipient will perform and provide under the Grant.

(b) Timeframes for the performance of approved project activities shall be as follows:

(1) All approved project activities except for Renovation, Conversion or Major rehabilitation shall commence within two months of the effective date of the Standard Agreement and shall be completed within 24 months of the effective date of the Standard Agreement. No extension of this contract term shall be granted.

(2) Approved project activities for Renovation, Conversion or Major rehabilitation shall commence within six months of the effective date of the Standard Agreement and shall be completed within 24 months of the effective date of the Standard Agreement. No extension of this contract term shall be granted.

(A) The commencement of project activities for Renovation, Conversion, or Major rehabilitation shall mean acquiring a building permit for Renovation, Conversion or Major rehabilitation.

(B) The completion of project activities for Renovation, Conversion, or Major rehabilitation activities shall mean acquiring a certificate of completion, where applicable.

(c) Each Standard Agreement shall provide that a State recipient shall request and receive Grant payments only under conditions that protect the Department's interests.

(d) The following performance requirements shall appear in each Standard Agreement and shall include additional provisions specific to each State recipient:

(1) State recipients shall submit to the Department reports on the progress toward the completion of approved activities during the term of the Standard Agreement;

(2) State recipients shall maintain accounting books and records in accordance with generally accepted accounting standards;

(3) State recipients receiving FESG funds for Renovation, Conversion, or Major rehabilitation shall provide the Department with a security interest in any real or personal property improved with FESG funds. The security interest shall be sufficient to secure the continued compliance by the State recipient with specified terms of the Standard Agreement.

(e) The Standard Agreement may require a work plan prepared by the State recipient as part of its application and incorporated by reference as part of the Standard Agreement which the State may then use for contract monitoring purposes.

(f) The Standard Agreement shall contain the applicable continued use requirements for Renovation, Conversion, and Major rehabilitation. Such requirements shall be consistent with the requirements set forth in the FESG Certifications on use of Assistance at 42 U.S.C. section 11375(c)(1) and 24 C.F.R. section 576.53, and shall be recorded against the property.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 42 U.S.C. 11375; 24 C.F.R. Sections 576.25, 576.35, 576.53 and 576.61.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8413. Procedures and Requirements for Procuring Contracts for Services or Materials under a Capital Development Contract.

(a) Each State recipient awarded a Grant for Renovation, Conversion, or Major rehabilitation shall include compliance with the requirements of this section in all its contracts and subcontracts for labor and materials to be paid for with FESG funds

(b) Prior to the disbursement of FESG funds for labor or materials, no contract in excess of $25,000 shall be awarded without the prior review and written approval from the Department. The Department shall not unreasonably withhold approval of said contracts.

(c) Each contract for Renovation, Conversion, or Major rehabilitation labor or materials shall comply with all applicable FESG program requirements, and all applicable terms and provisions of the Standard Agreement.

(d) Each contract shall include a provision stating that the records of the contracting parties shall be retained and subject to audit by the Department for a period of six years from the date of execution of the Standard Agreement.

(e) Each contract shall include a provision stating the method and schedule of payments, and shall provide for the retention of an amount of not less than ten percent from each progress payment, until such time as the lien–free completion of the project is ensured.

(f) Each Renovation, Conversion, or Major rehabilitation contract or subcontract of $25,000 or more shall include a security provision requiring the construction or service contractor to provide both a performance and a payment bond or an equivalent form of security, such as a letter of credit. Security instruments shall be subject to the following:

(1) Other than a performance bond and a payment bond, any form of security required of a contractor is subject to prior review and written approval by the Department;

(2) The security shall be in an amount equal to one hundred percent of the amount of the successful bid;

(3) Each construction or service contractor or subcontractor shall be appropriately licensed by the California State Contractors Licensing Board, and shall be insured as required by State law; and

(4) Each construction or service contractor or subcontractor shall not be on a list of federally debarred contractors.

(g) The State recipient shall establish procedures that ensure that disbursements are properly expended by, or on behalf of, the State recipient. Such procedures shall include:

(1) Performing on-site inspections of the construction or rehabilitation work; and

(2) Using progress inspection reports as the basis for issuing payments to contractors or subcontractors.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Sections 576.25, 576.61 and 576.65.

HISTORY

1. New section filed 7-14-2004; operative 8-13-2004 (Register 2004, No. 29).

§ 8414. Requirements for Renovation, Conversion, or Major Rehabilitation Performed by the State Recipient.

(a) A State recipient that chooses to perform all or part of the labor, and/or to provide all or part of the materials necessary for Renovation, Conversion, or Major rehabilitation, shall comply with the requirements of this section.

(1) FESG funds shall not be used to pay any family member of any person on the Governing Board or staff of the State recipient.

(2) The State recipient shall enter into a written contract with each subcontractor, pursuant to the requirements of section 8413.

NOTE: Authority: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Sections 576.57 and 576.61.

HISTORY

1. New section filed 7-14-2004; operative 8-13-2004 (Register 2004, No. 29).

§ 8415. Budget Changes.

(a) After the award is made, the Department may approve changes to a project budget provided the requested budget change complies with either of the requirements of section 8415 subdivisions (b) or (c) below.

(b) The proposed budget change meets all of the following criteria when applicable:

(1) Does not substantially change the specific Clients served by the approved project activities;

(2) Continues to meet the priorities and criteria imposed during the respective award selection process;

(3) Results in a product substantially the same as the originally approved Eligible activity and, costs the same as or less than the originally approved Eligible activity;

(4) Will be completed by substantially the same date as allowed for in the original approval;

(5) Is justifiable, at the sole discretion of the Department, upon the Department's consideration of written evidence documenting the reasons for the change. If the proposed budget change involves eliminating an entire expense item from the Grant budget, the State recipient must explain what other funding will pay for this item.

(c) Will not result in a decrease in benefits to the local program.

(d) If the proposed budget change represents more than 10% of the overall award amount, an amendment to the Standard Agreement is required.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Section 576.25.

HISTORY

1. New section filed 7-14-2004; operative 8-13-2004 (Register 2004, No. 29).

§ 8416. Disbursement Procedures.

(a) FESG funds shall be disbursed pursuant to the terms of the Standard Agreement.

(b) For Renovation, Conversion, or Major rehabilitation activities, the Department may require the State recipient to have an escrow account, a construction fund control account, or a comparable type of account for these activities.

(c) The Department may rely on the State recipient's certification that expenditures claimed in a request for disbursement are eligible and necessary, provided that the State recipient also certifies that detailed supporting documentation verifying each expenditure is available and shall be retained by the State recipient for six years after the execution of the Standard Agreement.

(d) Except for Renovation, Conversion, and Major rehabilitation activities, State recipients may request an advance of 30 days working capital or $5,000, whichever is greater, after the Standard Agreement is executed.

(e) As necessary, the Department shall establish minimum disbursement amounts or other related procedures necessary for the efficient administration of the FESG program.

(f) If a State recipient uses FESG funds for the costs of ineligible activities, the State recipient shall be required to reimburse these funds to the Department, and shall be prohibited from applying to the Department for subsequent FESG funds until the Department is fully repaid.

(g) Notwithstanding section 8416 subdivision. (d), only costs incurred after execution of the Standard Agreement and after all environmental review requirements have been met will be paid by the Department. Environmental review compliance shall include compliance with 24 C.F.R. Part 58.

(h) Requests for disbursement of FESG funds must be made by the State recipient on forms approved by the Department.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Sections 576.21, 576.25, 576.57, 576.61, 576.63 and 576.65.

HISTORY

1. New section filed 7-14-2004; operative 8-13-2004 (Register 2004, No. 29).

§ 8417. Reporting and Recordkeeping.

In addition to the requirements of 24 C.F.R. Parts 84 and 85, the following requirements apply to requests for funds, fiscal reporting and maintenance of records:

(a) All reports must be made on forms approved by the Department;

(b) All State recipients must submit a written request for disbursement each time a request for funds is made;

(c) All State recipients must submit a written disbursement expenditure detail report with the first request for disbursement;

(d) All State recipients must submit written quarterly accrued expenditure reports;

(e) A written report must be submitted annually during the period of the Grant;

(f) A written completion report must be submitted within 60 days after expiration of the Standard Agreement;

(g) Additional reports may be requested by the Department to meet other applicable federal reporting requirements;

(h) State recipients must maintain all fiscal and program records pertaining to the Grant for a period of six years from the date of execution of the Standard Agreement; and

(i) Pursuant to 24 C.F.R. section 576.65(b), all State recipients must maintain the confidentiality of records pertaining to the provision of prevention or treatment services to victims of family violence.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Sections 576.61 and 576.65.

HISTORY

1. New section filed 7-14-2004; operative 8-13-2004 (Register 2004, No. 29).

§ 8418. Monitoring Grant Activities.

(a) The Department shall monitor activities funded by Grants selected and awarded by the Department according to the terms of the Standard Agreement.

(b) If it is determined that a State recipient falsified any certification, application information, financial, or contract report, the State recipient shall be required to reimburse the full amount of the Grant to the Department, and may be prohibited from any further participation in the FESG program.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R Sections 576.61 and 576.67.

HISTORY

1. New section filed 7-14-2004; operative 8-13-2004 (Register 2004, No. 29).

§ 8419. Audit Requirements.

(a) Private nonprofit organizations must submit audits to the Department for review and approval. These audits must comply with OMB Circular A–133. See 24 C.F.R. 576.57(g).

(b) Units of general local government must submit audits to the Department for review and approval. These audits must comply with 24 C.F.R. Part 44 as set forth in 24 C.F.R. Part 45.

(c) The Department may also periodically request that a State recipient be audited.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Sections 576.57 and 576.61; 24 C.F.R. Parts 44 and 45.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8420. Sanctions.

The Department may impose sanctions, as well as any other remedies available to it under law, on a State recipient for failure to abide by any state and federal laws and regulations applicable to the FESG program. Such sanctions include:

(a) Conditioning a future Grant on compliance with specific laws or regulations;

(b) Directing a State recipient to stop incurring costs under the current Grant;

(c) Requiring that some or all of the Grant amount be remitted to the Department;

(d) Reducing the amount of Grant funds a State recipient would otherwise be entitled to receive; and/or

(e) Electing not to award future Grant funds to a State recipient until appropriate actions are taken by the State recipient to ensure compliance.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. Sections 576.61 and 576.67.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

§ 8421. Other Federal Requirements.

State recipients shall abide by all applicable local, state, and federal laws pertaining to the FESG program, including, but not limited to, all other applicable federal laws cited in 42 U.S.C. sections 11371–11378 and 24 C.F.R. Part 576.

NOTE: Authority cited: Section 50406(n), Health and Safety Code. Reference: 24 C.F.R. 576.61.

HISTORY

1. New section filed 7–14–2004; operative 8–13–2004 (Register 2004, No. 29).

Subchapter 21. Enterprise Zone Program

Article 1. General

§ 8430. Purpose and Scope.

These regulations implement and interpret Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1, Government Code, which establishes the Enterprise Zone Act; and Sections 17053.74(c) and 23622(c) of the Revenue and Taxation Code.

NOTE: Authority cited: Sections 7086(a) and (d), Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Chapter 12.8 (commencing with Section 7070) of Div. 7, Title 1, Government Code; and Sections 17053.74(c) and 23622.7(c), Revenue and Taxation Code.

HISTORY

1. New subchapter 21 (articles 1–2) article 1 (sections 8340–8431) and section filed 9–30–2004 as an emergency; operative 9–30–2004 (Register 2004, No. 40). This emergency regulation will remain in effect for 360 days from the date of filing pursuant to Government Code section 7086, subdivision (d). A Certificate of Compliance must be transmitted to OAL by 9–25–2005 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2005, No. 2).
3. Certificate of Compliance as to 9–30–2004 order transmitted to OAL 8–16–2005 and filed 9–27–2005 (Register 2005, No. 39).
4. Change without regulatory effect amending subchapter 21 heading filed 4–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 17).

§ 8431. Definitions.

The following definitions shall apply to this Subchapter. Unless the context clearly requires otherwise, terms not defined herein shall have the meanings set forth in Chapter 12.8 of Division 7 of the Government Code, commencing with Section 7070, or Revenue and Taxation Code Sections 23622.7 and 17053.74, as amended from time to time. References to code sections refer to the sections of these regulations unless otherwise noted.

(a) "Act" shall mean Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1, Government Code.

(b) "Certificate" or "voucher" means the certification described in subdivision (c)(1) of Revenue and Taxation Code Sections 17053.74 and 23622.7. This document shall contain all the information required by Section 8464 in a format provided by the Department.

(c) "Department" means the Department of Housing and Community Development.

(d) "Enterprise Zone" or "zone" means the same as defined in subdivision (d) of Government Code Section 7072.

(e) "Enterprise Zone Manager" or "zone manager" means the person or position designated by an enterprise zone governing body to administer its enterprise zone program, including the issuing of vouchers.

(f) "Memorandum of Understanding" or "MOU" means an agreement between an enterprise zone and the Department identifying the start date of tax credits in the zone, listing the terms and conditions that the zone must fulfill during the life of the zone, and any amendments thereto including, but not limited to, any terms and conditions for compliance with any audit agreement.

(g) "Qualified Employee" means a "qualified employee" as defined in subdivision (b)(4)(A) of Revenue and Taxation Code Sections 17053.74 and 23622.7.

(h) "Remittance Form" means the form described in subsection (b) of Section 8433.

(i) "Voucher" means the same as "Certificate."

NOTE: Authority cited: Sections 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7072, 7076, 7076.1 and 7086, Government Code; and Sections 17053.74(c) and 23622.7(c), Revenue and Taxation Code.

HISTORY

1. New section filed 9–30–2004 as an emergency; operative 9–30–2004 (Register 2004, No. 40). This emergency regulation will remain in effect for 360 days from the date of filing pursuant to Government Code section 7086, subdivision (d). A Certificate of Compliance must be transmitted to OAL by 9–25–2005 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2005, No. 2).
3. Certificate of Compliance as to 9–30–2004 order, including amendment of subsection (f), transmitted to OAL 8–16–2005 and filed 9–27–2005 (Register 2005, No. 39).
4. Amendment of section and NOTE filed 11–27–2006; operative 11–27–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).

Article 2. Department Application Fees

§ 8432. Amount of Department Fee.

(a) Commencing on November 1, 2004, each enterprise zone shall remit to the Department a fee of $10.00 for each application for a Certificate that it accepts. The enterprise zone may collect this fee at the time it accepts an application for processing. The fees shall be remitted pursuant to the procedures set forth in Section 8433.

(b) The Department may adjust the per–application fee from time to time, pursuant to the Administrative Procedure Act, to ensure that fees collected meet, but do not exceed, the Department's costs of administering the Act. In no case shall the per–application fee exceed $10. Prior to any such adjustment, the Department shall notify all enterprise zones.

NOTE: Authority cited: Sections 7086(a) and (d), Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7076(c) and 7086(d), Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code.

HISTORY

1. New article 2 (sections 8342–8435) and section filed 9–30–2004 as an emergency; operative 9–30–2004 (Register 2004, No. 40). This emergency regulation will remain in effect for 360 days from the date of filing pursuant to Government

Code section 7086, subdivision (d). A Certificate of Compliance must be transmitted to OAL by 9–25–2005 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2005, No. 2).
3. Certificate of Compliance as to 9–30–2004 order transmitted to OAL 8–16–2005 and filed 9–27–2005 (Register 2005, No. 39).

§ 8433. Procedure for Remittance of Department Fees.

(a) No later than the 25th day of December 2004, and on the 25th day of each month thereafter, each enterprise zone shall file a completed Remittance Form with the Department for the fees collected during the preceding month. An enterprise zone shall file a Remittance Form even if no applications were accepted during the preceding month.

(b) The Remittance Form shall be provided by the Department and shall inform the enterprise zone that the fees are being collected to reimburse the Department for the costs of its administration of the Act, and shall include instructions for returning the completed Remittance Form. The Remittance Form shall request the following information: (1) date submitted; (2) name of the enterprise zone; (3) the enterprise zone contact person, telephone number and e–mail address; (4) total number of applications accepted for the preceding month; and (5) the total amount of funds being remitted.

(c) Each enterprise zone shall remit to the Department, along with the completed Remittance Form, a single check, made payable to the Department of Housing and Community Development, in a dollar amount equal to the then current per–application fee established by the Department pursuant to Section 8432 multiplied by the number of applications accepted for the month being reported.

NOTE: Authority cited: Sections 7086(a) and (d), Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7076(c) and 7086(d), Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code.

HISTORY

1. New section filed 9–30–2004 as an emergency; operative 9–30–2004 (Register 2004, No. 40). This emergency regulation will remain in effect for 360 days from the date of filing pursuant to Government Code section 7086, subdivision (d). A Certificate of Compliance must be transmitted to OAL by 9–25–2005 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2005, No. 2).
3. Certificate of Compliance as to 9–30–2004 order transmitted to OAL 8–16–2005 and filed 9–27–2005 (Register 2005, No. 39).

§ 8434. Noncompliance.

If the Department determines that an enterprise zone has failed to comply with the requirements of this Article it may:

(a) Suspend any discretionary services rendered to the enterprise zone including, but not limited to, processing of expansion requests or requests to extend the enterprise zone designation; and

(b) Issue a determination that the enterprise zone is failing for purposes of Government Code Section 7076.1, without further audit of the enterprise zone's operations.

NOTE: Authority cited: Sections 7086(a) and (d), Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7076(c), 7076.1 and 7086(d), Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code.

HISTORY

1. New section filed 9–30–2004 as an emergency; operative 9–30–2004 (Register 2004, No. 40). This emergency regulation will remain in effect for 360 days from the date of filing pursuant to Government Code section 7086, subdivision (d). A Certificate of Compliance must be transmitted to OAL by 9–25–2005 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2005, No. 2).
3. Certificate of Compliance as to 9–30–2004 order, including amendment of first paragraph and subsection (a), transmitted to OAL 8–16–200 5 and filed 9–27–2005 (Register 2005, No. 39).

Article 3. Enterprise Zone Designation Process — General

§ 8439. Definitions.

In addition to the definitions contained in Government Code section 7072, the following definitions shall apply only to the regulations contained in Articles 3–13 of this subchapter. Furthermore, as used in Articles 3–12, the term "Agency" shall mean the Department of Housing and Community Development.

(a) "Act" means the Enterprise Zone Act, Government Code section 7070 et seq.

(b) "Applicant" means a city, county, or city and county that submits an application to the Agency to have a geographical area, including an area within its jurisdiction, designated as an enterprise zone under the provisions of the Act.

(c) "Application" means the written application submitted to the Agency pursuant to either article 6 or article 7 of this subchapter.

(d) "Application area" means the geographical area consisting of the eligible area and commercial and/or industrial area contained in a preliminary or final application.

(e) "Block" means the lowest level in the hierarchy of census geography whereby census data is collected by the United States Department of Commerce, Bureau of the Census.

(f) "Block group" means a combination of blocks that is a subdivision of a census tract.

(g) "Census maps" means the Block Statistics Maps published by the United States Department of Commerce, Bureau of the Census.

(h) "Census tract" means a small statistical subdivision of a county whereby census data is collected by the United States Department of Commerce, Bureau of the Census.

(i) "Commercial area" means a geographic area within which at least 51% of the land area is zoned commercial by the city, county or city and county.

(j) "Conditional designation" means designation by the Agency of a final applicant's application area as an enterprise zone, subject to the final applicant's completion of the conditions necessary for final designation specified in the section 8445 conditional designation document.

(k) "Decennial census" means the population survey of the United States conducted every ten years by the United States Department of Commerce, Bureau of the Census.

(*l*) "Designation process" means all steps required for final designation, including eligibility, preliminary application, final application, conditional designation and final designation, identified in section 8439.1(c).

(m) "Distressed area" means a geographic area that either (1) meets the requirements of section 8440.2, or (2) is contained in an approved petition.

(n) "Eligible area" means, except for an SB1438 zone, a geographic area that meets the requirements of section 8440.4 and is a distressed area. An eligible area for an SB1438 zone is one which meets the requirements of sections 8440.1 and 8440.3.

(o) "Enterprise zone" means an application area contained in an application awarded final designation status by the Agency.

(p) "Final applicant" means a preliminary applicant selected by the Agency to complete a final application.

(q) "Final application" means the written application submitted to the Agency pursuant to article 7 of this subchapter.

(r) "Final designation" means that the final applicant with conditional designation status has been mailed written notification from the Agency that it has completed, to the satisfaction of the Agency, all conditions of the conditional designation and that designation of the final applicant's application area as an enterprise zone is final and complete.

(s) "Industrial area" means a geographic area within which at least 51% of the land area is zoned industrial by the local jurisdiction.

(t) "Infrastructure" means the physical systems and services which support development and people, including, but not limited to, streets, and highways, transit services, airports, and water and sewer systems.

(u) "Petition" means a written request submitted to the Agency by a city, county, or city and county for a finding that a geographic area within its jurisdiction qualifies as a distressed area.

(v) "Petition area" means the geographic area identified in a petition.

(w) "Preliminary applicant" means a city, county, or city and county that is preparing or has prepared a preliminary application.

(x) "Preliminary application" means the written application submitted to the Agency pursuant to article 6 of this subchapter.

(y) "SB1438 zone" means the process for designation of two enterprise zones which, in addition to compliance with the requirements for designation of an enterprise zone, meet the eligibility requirements contained in section 8440.3.

(z) "Small city" means a California city with a population less than 25,000 as of December 31, 1992.

(aa) "Small city enterprise zone" means the process for designation of two small cities as enterprise zones from applications received on or before June 30, 1994.

NOTE: Authority cited: Sections 7073, 7076, and 7085, Government Code. Reference: Sections 7071, 7073, 7073.9, 7076 and 7085, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order including amendment transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).

[The next page is 496.134.]

4. Amendment of subsections (a), (e), (g), (h), (k) and NOTE and new subsections (y) and (z) filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of subsections (a), (e), (g), (h), and (k), new subsections (y) and (z), and amendment of NOTE filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Amendment of subsections (l) and (n), new subsection (y), subsection relettering and amendment of NOTE filed 7–10–95 as an emergency; operative 7–10–95 (Register 95, No. 28). A Certificate of Compliance must be transmitted to OAL by 12–7–95 or emergency language will be repealed by operation of law on the following day.
8. Editorial correction of HISTORY 7 (Register 95, No. 42).
9. Certificate of Compliance as to 7–10–95 order transmitted to OAL 9–12–95 and filed 10–18–95 (Register 95, No. 42).
10. Change without regulatory effect moving title 10, chapter 7.8, articles 1–10 to title 25, division 1, chapter 7, subchapter 21, articles 3–13; amending newly designated article 3 heading; renumbering section 5600 to section 8439 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8439.1. Enterprise Zone Designation Process.

(a) The regulations contained in this chapter govern the establishment of enterprise zones pursuant to the Enterprise Zone Act, Government Code sections 7070 et seq.

(b) The Agency shall designate a maximum of twenty–five (25) enterprise zones, in addition to two small cities enterprise zones and two SB1438 zones. Pursuant to Government Code section 7073.9, the Agency shall designate two small cities enterprise zones. Pursuant to Government Code section 7073.7, the Agency shall designate two SB1438 zones. The four shall be in addition to the 25 previous designated. Except for the small cities and SB1438 designations, the Agency shall select a maximum of twenty (20) preliminary applications during each designation process to complete a final application, and from the final applications, the Agency shall designate up to eight (8) enterprise zones during each designation process. The Agency shall select a maximum of five (5) preliminary applications for designation of small cities enterprise zones and SB1438 zones, and shall conditionally designate two of the final applicants.

(c) The Agency shall designate an application area as an enterprise zone provided each of the following requirements is satisfied:

(1) A city, county or city and county submits a preliminary application to the Agency, or in the case of a small cities enterprise zone, a small city submits an application;

(2) The application area contains an eligible area and includes:

(A) a commercial area contained within or contiguous to the eligible area; and/or

(B) an industrial area contained within or adjacent to the eligible area;

(3) The preliminary applicant has been selected by the Agency to complete a final application; and

(4) The Agency has awarded the final applicant both conditional and final designation status.

NOTE: Authority cited: Sections 7073, 7076 and 7085, Government Code. Reference: Sections 7073, 7073.5, 7073.7, 7073.9 and 7076, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Amendment of subsections (b) and (c)(1) filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of subsections (b) and (c)(1) as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of subsections (b) and (c)(1) filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Amendment of subsection (b) and NOTE filed 7–10–95 as an emergency; operative 7–10–95 (Register 95, No. 28). A Certificate of Compliance must be transmitted to OAL by 12–7–95 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 7–10–95 order transmitted to OAL 9–12–95 and filed 10–18–95 (Register 95, No. 42).
9. Change without regulatory effect renumbering title 10, section 5600.1 to title 25, section 8439.1 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8439.2. Address of Agency.

The following is the Agency mailing address for any and all correspondence, applications, petitions, documents, and other materials concerning enterprise zones:

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
ENTERPRISE ZONE PROGRAM MANAGER
P.O. BOX 942054
SACRAMENTO, CALIFORNIA 94252–2054

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7071 and 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending section heading filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5601 to title 25, section 8439.2 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8439.3. Enterprise Zone Application Handbooks; Application Dates.

(a) The Agency shall prepare a handbook entitled "Enterprise Zone Preliminary Application Handbook" that will be mailed to all persons and entities who have requested receipt of a preliminary application. In the case of the small cities enterprise zone designation, the handbook shall be mailed to all small cities. The Enterprise Zone Preliminary Application Handbook shall contain the following:

(1) All due dates for the preliminary application;

(2) A description of the designation process;

(3) The scoring criteria and method employed by the Agency in evaluating preliminary applications; and

(4) The preliminary application form.

(b) The Agency shall prepare a handbook entitled "Enterprise Zone Final Application Handbook" that will be mailed to all final applicants. The Enterprise Zone Final Application Handbook shall contain the following:

(1) All due dates for the final application;

(2) A description of the designation process;

(3) The scoring criteria and method employed by the Agency in evaluating final applications; and

(4) The final application form.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7073 and 7073.9, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending subsections (a), (b) and (b)(3) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).

4. Amendment of subsection (a) and NOTE filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of subsection (a) and NOTE as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of subsection (a) and NOTE filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Change without regulatory effect renumbering title 10, section 5601.1 to title 25, section 8439.3 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8439.4. Application Area; Prohibition Against Changes.

(a) Each preliminary and final application shall include one, and only one, application area, consisting of one eligible area and one industrial and/or one commercial area. The commercial area shall be contiguous to or contained within the eligible area and shall have continuous boundaries. The industrial area shall be either contained within or adjacent to the eligible area and shall have continuous boundaries. As used in this Section, "adjacent" means eligible area residents can be expected to seek employment in the industrial area based upon historic employment practices.

(b) The application area identified in a preliminary application shall not be changed in the final application except as specified in section 8443.1.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7071, 7073 and 7076, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5601.2 to title 25, section 8439.4 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 4. Eligible Areas

§ 8440. Identification of Eligible Area; Eligibility Criteria.

(a) Except for an SB1438 zone, an eligible area shall meet the requirements set forth in section 8440.1 and the entire geographic area shall:

(1) Meet the criteria for a distressed area contained in section 8440.2 and/or

(2) Comply with article 5 of this subchapter.

(b) An SB1438 zone eligible area shall meet the requirements set forth in section 8440.1 and 8440.3.

NOTE: Authority cited: Sections 7073, 7076 and 7085, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Amendment of section and NOTE filed 7–10–95 as an emergency; operative 7–10–95 (Register 95, No. 28). A Certificate of Compliance must be transmitted to OAL by 12–7–95 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7–10–95 order transmitted to OAL 9–12–95 and filed 10–18–95 (Register 95, No. 42).
5. Change without regulatory effect renumbering title 10, section 5602 to title 25, section 8440 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8440.1. Continuous Boundaries; Area Population.

An eligible area shall consist of census tracts, block groups, or enumeration districts with continuous boundaries, and shall contain a population of at least 2,500 persons (based upon the most recent decennial census).

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5602.1 to title 25, section 8440.1 and amending NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8440.2. Distress Criteria.

(a) Each census tract, block group, or enumeration district within a non-petition distress area must meet at least three (3) of the distress criteria listed below:

(1) The net increase in per capita income between 1969 and 1983 was $8,203 or less;

(2) The average rate of unemployment for both 1984 and 1985 was 9% or more;

(3) The percent of persons below the poverty level in 1980 was 12.4% or more; or

(4) At least 70% of the households had income below 80% of median county household income during 1980.

(5) The area is within a jurisdiction declared a disaster area by the President of the United States within the last seven years.

The Agency shall provide applicants with the above–referenced data for each census tract, block group, or enumeration district using information prepared by the Department of Finance.

(b) To determine qualification under subsection (a)(1) above, information for the entire county shall be used if the same census tracts or enumeration districts are not available for the last two decennial censuses. In such cases, if the county qualifies, all census tracts or enumeration districts within that county qualify. For areas where census tracts are not available, enumeration districts shall be used.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending subsection (a)(4) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Amendment of subsections (a)(1)–(2) and (a)(5) and NOTE filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of subsections (a)(1)–(2), (a)(5) and NOTE as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of subsections (a)(1)–(2), (a)(5) and NOTE filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Change without regulatory effect renumbering title 10, section 5602.2 to title 25, section 8440.2 and amending NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8440.3. SB1438 Zone Eligible Area.

(a) "Area", as used in this section, means the county for a census tract outside a city, and the city for a census tract within a city. Therefore, in subsection (b)(1), "unemployment rate for the area" means that rate within the city if the census tract is in a city, otherwise it means the rate for the county.

(b) Each census tract within the SB1438 zone eligible area shall comply with a minimum of two of the following:

(1) The unemployment rate in the area has been twice the unemployment rate for the State of California in each of the years 1990 through

1994, inclusive, based upon figures provided by the Economic Development Department.

(2) The 1990 median household income for each census tract is less than 90 percent of the 1990 median household income for the county in which the census tract is located, based upon figures provided by the Department of Finance Demographics Unit.

(3) The area has experienced at least an eight percent increase in population per year in both 1993 and 1994 while employment in the area has increased less than eight percent per year in 1993 and 1994, based upon figures provided by the Economic Development Department. In calculating the increase, if 1992 population was 100,000, then population in 1993 must be at least 108,000, and in 1994 at least 116,640.

NOTE: Authority cited: Sections 7073, 7076 and 7085, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 7–10–95 as an emergency; operative 7–10–95 (Register 95, No. 28). A Certificate of Compliance must be transmitted to OAL by 12–7–95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–10–95 order transmitted to OAL 9–12–95 and filed 10–18–95 (Register 95, No. 42).
3. Change without regulatory effect renumbering title 10, section 5602.3 to title 25, section 8440.3 and amending NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 5. Eligible Area Petition Process

§ 8441. Petition Area as an Eligible Area.

(a) If the petition area does not comply with the distress criteria specified in section 8440.2, the petition area shall qualify as a distressed area, provided the petition area meets the requirements of one of the following sections: section 8441.2, section 8441.3 or section 8441.4.

(b) The petition shall contain all of the following information:

(1) A description and identification of the exact location and the specific boundaries of the petition area, together with the population data for the petition area.

(2) All data and information in support of the contention that the petition area meets the requisite distress criteria set forth in one of the following sections: 8441.2, 8441.3, or 8441.4.

(3) All data and information in support of the contention that the eligible area meets the requirements of section 8440.1.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Change without regulatory effect renumbering title 10, section 5604 to title 25, section 8441 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8441.1. Petition; Time for Submission.

(a) A city, county, or city and county shall be authorized to submit a written petition to the Agency for a finding that a geographic area within its jurisdiction qualifies as a distressed area.

(b) Except for a small cities enterprise zone petition, the petition shall be received by the Agency on or before the sixtieth (60th) day prior to the date that the preliminary applications are due to the Agency. Petitions under the small cities enterprise zone program shall be received by the Agency by the preliminary application due date. The Agency shall not accept any petition that is received after the petition due date.

(c) The Agency shall publish the due date for petitions in the Enterprise Zone Preliminary Application Handbook.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7073 and 7073.9, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Amendment of subsection (b) and NOTE filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of subsection (b) and NOTE as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of subsection (b) and NOTE filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Change without regulatory effect renumbering title 10, section 5605 to title 25, section 8441.1 and amending NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8441.2. Plant Closures.

(a) A petition area shall qualify as a distressed area if the petition area has experienced a plant closure or closures causing the unemployment of at least 100 full–time workers from the plant(s) within the twenty–four (24) months prior to the filing of the petition.

(b) For purposes of this section, the following definitions shall apply:

(1) "Plant" means a business that manufactures, processes, combines or otherwise fabricates a product, and includes a military base; and

(2) "Full–time" means employment which when aggregated with respect to one or more employees totals at least one thousand seven hundred and fifty (1,750) hours per 12–month period.

(c) The city, county, or city and county shall attach the documents that support its contention that the petition area is a distressed area under the provisions of this section including:

(1) The name and address of closed plant(s);

(2) The number of full–time plant workers who became unemployed as a result of the closure of the plant(s); and

(3) The date the plant(s) closed.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5605.1 to title 25, section 8441.2 and amending NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8441.3. Substantially Similar Conditions of Economic Distress.

A petition area shall qualify as a distressed area if at least 51% of the population or the geographic area within the petition area complies with the provisions of section 8440.2. The remaining portion of the population or the geographic area within the petition area shall meet a minimum of three (3) economic distress criteria. At least one (1) of the three (3) criteria shall be an economic distress criteria specified in section 8440.2. The remaining criteria shall meet the criteria set forth below.

(a) The percentage of aid to families with dependent children (AFDC) recipients residing in the petition area is one hundred and twenty percent (120%) or more of the percentage of AFDC recipients residing in the State of California and in the county within which the petition area is located. For the purposes of this subsection, the following data shall be utilized in calculating the percentage of AFDC recipients residing in the petition area, the State and the county:

(1) The number of resident AFDC recipients shall be based upon the most recent annual data compiled by the State Department of Social Services; and

(2) The total number of residents shall be based on the most recent decennial census data prepared by the United States Department of Commerce, Bureau of the Census;

(b) The percentage of county general relief program recipients residing in the petition area is one hundred and twenty percent (120%) or more of the percentage of general relief program recipients residing in the State of California and in the county within which the petition area is located. For the purposes of this subsection, the following data shall be utilized in calculating the percentage of general relief recipients residing in the petition area, the State and the county:

(1) The number of resident general relief recipients shall be based upon the most recent annual data compiled by the State Department of Social Services; and

(2) The total number of residents shall be based on the most recent decennial census data prepared by the United States Department of Commerce, Bureau of the Census;

(c) The most recent one year high school drop–out rate for school age children residing in the petition area is one hundred and twenty percent (120%) or more of the most recent one year high school drop–out rate for school age children residing in the State of California and in the county within which the petition area is located. The petition area drop–out rate is available from the local unified school district. The State and county drop–out rates shall be contained in the Enterprise Zone Preliminary Application Handbook.

(d) The population of the petition area meets the population loss criteria (also referred to as "population lag/decline") identified by the most recent Urban Development Action Grant guidelines published by the United States Department of Housing and Urban Development as of the date the preliminary applications were mailed by the Agency.

(e) The most recent annual percentage of persons residing in the petition area below the poverty rate is one hundred and twenty percent (120%) or more of the most recent annual poverty rate for the persons residing in the State of California. The State poverty rate shall be contained in the Enterprise Zone Preliminary Application Handbook.

(f) The most recent annual unemployment rate for persons residing in the petition area is one hundred and twenty percent (120%) or more of the most recent annual unemployment rate for the persons residing in the State of California and in the county in which the petition area is located. The State and county unemployment rates shall be contained in the Enterprise Zone Preliminary Application Handbook.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending subsections (a)(2) and (b)(2) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Amendment filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of subsections (a)(1)–(2), (b)(1)–(2), (c), (e) and (f) filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Change without regulatory effect renumbering title 10, section 5605.2 to title 25, section 8441.3 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8441.4. Gang–Related Activity.

(a) A petition area shall qualify as a distressed area if the petition area has experienced a history of gang–related activity, whether or not crimes of violence have been committed.

(b) The city, county, or city and county shall attach the documents demonstrating that the petition area has been identified by the Office of Criminal Justice Planning for the State of California as a gang activity area.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5605.3 to title 25, section 8441.4 and amending NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8441.5. Approval or Denial of Petitions; Finality of Decisions.

(a) The Agency shall mail a "petition letter" to each city, county, or city and county that submitted a petition within thirty (30) days after the date specified in section 8441.1(b) for the filing of petitions. The petition letter shall inform the city, county, and or city and county that submitted a petition whether the petition is approved or denied.

(b) If the petition has been denied, the petition letter shall inform the city, county, or city and county that submitted a petition of the reasons for denying the petition. The Agency's decision to deny a petition shall be final and no further review of the petition shall be conducted by the Agency.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending subsection (b) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5605.4 to title 25, section 8441.5 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 6. Preliminary Application Procedure

§ 8442. Jurisdiction over Applications Area.

(a) No city, county or city and county shall participate as an applicant unless a portion of the proposed application area is within its jurisdiction.

(b) For the purposes of this article, "jurisdiction" means the geographic area where applicant has authority to enforce ordinances and resolutions.

(c) Each application must include at least one applicant city and/or county with jurisdiction in the eligible area.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5606 to title 25, section 8442 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.1. Information Required.

All preliminary applications shall contain the documents and information specified in sections 8442.4, 8442.6, 8442.7, 8442.8, and 8449.3.

NOTE: Authority cited: Sections 7073 and 7076, Government Code; and Section 21082, Public Resources Code. Reference: Sections 7071, 7073 and 7075, Government Code.

HISTORY

1. New section filed 4–02–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180

days or emergency language will be repealed on 10–1–90. For prior history,see Register 87, No. 2.

2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Amendment filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
5. Amendment filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
6. Change without regulatory effect renumbering title 10, section 5606.1 to title 25, section 8442.1 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.2. Notification of Preliminary Application Process.

The Agency shall mail an Enterprise Zone Preliminary Application Handbook on the first day of the preliminary application time period to each entity or person who has previously requested receipt of a preliminary application. In the case of a small cities enterprise zone designation, the handbook shall be mailed to all small cities on May 30, 1994.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7073 and 7073.9, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
4. Amendment of section and NOTE filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section and NOTE as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of section and NOTE filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Change without regulatory effect renumbering title 10, section 5606.2 to title 25, section 8442.2 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.3. Preliminary Application Deadline.

(a) Preliminary applications shall be received by the Agency no later than 5:00 PM on the one hundred and fiftieth (150th) day after the day the preliminary applications were mailed, except for a small cities enterprise zone preliminary application, which shall be due June 30, 1994. The mailing and deadline dates shall be specified in the Enterprise Zone Preliminary Application Handbook.

(b) The Agency shall reject any preliminary application received after the due date for preliminary applications. The Agency shall inform the applicant in writing within ten (10) days of receipt of the preliminary application that the applicant's preliminary application was received after the due date and was thereby rejected by the Agency.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7073 and 7073.9, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Amendment of subsection (a) and NOTE filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of subsection (a) and NOTE as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of subsection (a) and NOTE filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Change without regulatory effect renumbering title 10, section 5606.3 to title 25, section 8442.3 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.4. Number of Copies; Applicant Name; Principal Contact Person.

(a) Preliminary applicants shall submit 6 copies of the preliminary application, plus 1 signed and clearly identified original, to the Department, except for the small cities designation process, for which one original and two copies are required.

(b) The preliminary application shall contain:

(1) The name(s) and address(es) of the applicant(s); and

(2) The name, address and phone number of the principal contact person for the preliminary application.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Amendment of subsection (a) filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
4. Change without regulatory effect amending subsection (a) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Editorial Correction adding History Note 3 and renumbering History Note 3 to 4 (Register 95, No. 6).
6. Reinstatement of subsection (a) as it existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
7. Amendment of subsection (a) filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
8. Change without regulatory effect renumbering title 10, section 5606.4 to title 25, section 8442.4 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.5. Review Limited to Information in Preliminary Application.

(a) The Agency shall review preliminary applications based solely upon the information received by the Agency on or before the due date for preliminary applications.

(b) The Agency reserves the right to contact preliminary applicants after the due date for preliminary applications to obtain clarification of submitted information, but not to obtain additional information.

NOTE: Authority cited: Sections 7073 and 7076, Government Code; and Section 21082, Public Resources Code. Reference: Sections 7071, 7073, and 7075, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5606.5 to title 25, section 8442.5 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.6. Application Area Description.

The preliminary application shall include a description of the application area. The description shall include the following:

(a) Documents that show the exact geographic location of the application area, including both of the below listed items:

(1) Census maps that show the exact location of the eligible area and the census tract, block group, or enumeration district numbers assigned by the United States Department of Commerce, Bureau of the Census; and

(2) A street map that identifies the streets, census tracts, enumeration districts and/or block groups that mark the boundaries of the application area and the commercial and/or industrial area.

(b) Documents that show that the application area contains an eligible area. If applicable, attach a copy of the section 8441.5 petition letter indicating that the petition was approved.

(c) A copy of both the existing general zoning and land use maps for the application area and area immediately surrounding the application area, with the eligible, commercial and/or industrial areas clearly identified.

(d) A statement that the application area includes one industrial area and/or one commercial area. Application areas containing an industrial area adjacent to the eligible area shall provide evidence that the industrial area meets the definition of specifications for adjacent, as set forth in section 8439.4(a).

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7071 and 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending subsection (a)(1) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending subsection (a)(1) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5607 to title 25, section 8442.6 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.7. Preliminary Economic Development Plan and Evaluation Criteria.

Each preliminary application shall contain a Preliminary Economic Development Plan. Each Preliminary Economic Development Plan shall contain the information and data required by this section, except for a plan contained in a small cities preliminary application, which shall only contain the information and data required by subsection (a), (b) and (f). The Agency shall evaluate and numerically grade each Preliminary Economic Development Plan on a competitive basis, based upon the categories and the corresponding point values set forth below and the scoring method set forth in section 8444.2.

(a) Marketing the zone: up to 250 points.

The Preliminary Economic Development Plan shall contain a detailed marketing plan for the application area. The marketing plan shall include the following information:

(1) An explanation of the specific marketing goals and the course(s) of action to be taken in order to attain the specified goals;

(2) A detailed description of the plans to:

(A) Keep existing businesses from leaving the application area; and

(B) Assistance to be provided in helping existing businesses to expand;

(3) A detailed description of the plans to attract new businesses into the application area, including the names of the industries targeted for attraction;

(4) A detailed description of the role of the local economic development corporation, or similar organization;

(5) A detailed description of the sales plan for on–site visits to existing and/or new businesses;

(6) A detailed analysis of the advertising and promotional strategy, including a media analysis and samples of existing advertising and promotional materials;

(7) A detailed analysis of the staff, organization and budgets to be committed to the marketing plans by all organizations;

(8) Specific examples of successful efforts by the corporations or organizations identified in subsection (a)(4) above to attract and/or retain businesses;

(9) A list of all application area commercial real estate brokers who will handle real estate transactions within the application area; and

(10) Any other indicators of the applicant's plans for marketing the application area.

(b) Available property and businesses: up to 200 points.

The Preliminary Economic Development Plan shall include the number of businesses presently located in the application area, as well as a list that contains the following application area information:

(1) The total square footage of vacant buildings on land zoned industrial that meet all local and state building, fire, and seismic codes, as well as other codes necessary to operate the facility;

(2) The total square footage of vacant buildings on land zoned commercial that meet all local and state building, fire, and seismic codes, as well as other codes necessary to operate the facility;

(3) The total number of acres of vacant improved land zoned industrial. "Improved land" and used in this subsection (b) means that all infrastructure necessary to operate from the site is available to deliver water, power, sewer and traffic services;

(4) The total number of acres of vacant improved land zoned commercial;

(5) The total number of acres of vacant unimproved land zoned industrial; and

(6) The total number of acres of vacant unimproved land zoned commercial;

(7) Any other information concerning the available property and businesses in the application area.

(c) Job development: up to 175 points.

The Preliminary Economic Development Plan shall contain a detailed explanation of the plan to identify, train and place application area unemployed and underemployed persons into the jobs created through the marketing of the application area. The Preliminary Economic Development Plan shall also include the following information:

(1) A list containing the names and addresses of all administrative agencies and/or contractors who will provide intake and/or job development services in the application area under the Job Training Partnership Act (JTPA) (29 USC Section 1501 et seq), Greater Avenues for Independence (GAIN) (Welfare and Institutions Code Section 11320 et seq), and Targeted Jobs Tax Credit (TJTC) (26 USC Section 51), and which will provide funds and staff for the implementation of the Preliminary Economic Development Plan;

(2) A detailed explanation of the specific contributions that each agency and/or contractor shall make for the implementation of the Preliminary Economic Development Plan;

(3) A detailed explanation of how the recipients of JTPA, GAIN, and TJTC services will be placed in enterprise zone jobs. The applicant shall include a detailed explanation of the coordination of marketing efforts with job development agencies and/or contractors;

(4) Data that shows the track record of job placements by each agency and/or contractor over the two (2) years preceding the date the preliminary applications were mailed by the Agency;

(5) A detailed organization chart showing all staff persons providing job development management and services for each agency and/or contractor identified in the Preliminary Economic Development Plan as well as all job development coordination staff of the applicant; and

(6) Any other indicators of the applicant's job development plans for the application area.

(d) Local incentives: up to 125 points.

The Preliminary Economic Development Plan shall include a detailed description of the local incentives provided by the applicant and a detailed explanation of how the proposed local incentives will stimulate business investment in the application area. The following information shall be included in the Preliminary Economic Development Plan:

(1) An explanation of the plans to reduce fees for application area business, including development fees, license fees, and permit fees;

(2) An explanation of methods to be employed to reduce the administrative processing time required for plan review and permit applications for application area businesses;

(3) An explanation of the land use plan, together with maps of the application area that forecast local zoning plans for the next 5 to 10 years to ensure that the projected zoning plans are consistent with the Preliminary Economic Development Plan; and

(4) Any other indicators of the applicant's plans for application area incentives.

(e) Financing programs: up to 100 points.

The Preliminary Economic Development Plan shall contain a detailed description of the current and proposed financing programs that will be targeted to businesses within the application area. The description shall include the following information:

(1) A list containing the identity of all agencies, organizations and firms that will provide financial assistance to businesses within the application area;

(2) An explanation of the types of services each entity identified in subsection (e)(1) above offers and a detailed record of the companies that have received financial assistance during the three (3) year period prior to the date the preliminary application was mailed by the Agency;

(3) The identity of all financial institutions with facilities in or near the application area that have expressed an interest in making business loans to companies located in the application area, and a list of those financial institutions which are presently making loans guaranteed by the United States Small Business Administration;

(4) A detailed explanation of the loans available through programs offered by the applicant, together with data showing the result of these loan programs for the three year period immediately prior to the date the preliminary applications were mailed by the Agency; and

(5) Any other indicators of the applicant's financing program.

(f) Unemployment and area income levels: up to 100 points.

The Preliminary Economic Development Plan shall contain data that shows the 1980 per capita income and percent of unemployment for each census tract, block group or enumeration district in the eligible area.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7073 and 7073.9, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending opening paragraph and subsections (c)(4), (e)(2) and (e)(4) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Amendment of opening paragraph, subsection (c)(2) and NOTE filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of first paragraph, subsection (c)(2) and NOTE as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of first paragraph, subsection (c)(2) and NOTE filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Change without regulatory effect renumbering title 10, section 5608 to title 25, section 8442.7 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.8. Resolution Required.

A preliminary application shall include a resolution adopted by each city, county, or city and county having jurisdiction over any portion of an application area. A preliminary application without such resolutions shall be rejected and no further review of the preliminary application shall be conducted.

(a) For each city, county, or city and county that is a preliminary applicant, the resolution shall contain the following information:

(1) A finding that the application area is a depressed area, and that designation of the application area as an enterprise zone is necessary in order to attract private sector investment to the application area; and

(2) A statement that the city, county, or city and county agrees to complete all actions stated within the preliminary and final application which apply to its jurisdiction should the final application be awarded conditional designation.

(b) For each city, county, or city and county having jurisdiction over any portion of an application area that is not a preliminary applicant, the resolution shall contain the following information:

(1) A statement that the city, county, or city and county agrees to the inclusion of the area within its jurisdiction as part of the application area but does not wish to participate as a preliminary or final applicant; and

(2) A statement that the city, county, or city and county agrees to complete all actions stated within the preliminary and final application which apply to its jurisdiction should the final application be awarded conditional designation.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5609 to title 25, section 8442.8 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.9. Invalid Application Areas; Addendum to Preliminary Application.

(a) The Agency shall send a notice by certified mail to each preliminary applicant whose preliminary application contains an invalid area. The notice shall contain a description of the invalid area, and an explanation as to why the area is invalid. For the purposes of this section, "invalid area" means an application area, or portion thereof, that:

(1) Is included within the application area of more than one preliminary or final application;

(2) Is included in a designated program area under the provisions of the Employment and Economic Incentive Act, chapter 44, statutes of 1984; or

(3) Is included within an area that has been designated as an enterprise zone by the Agency.

(b) The Agency shall permit a preliminary applicant whose preliminary application contains an invalid area an opportunity to submit an addendum to the preliminary application ("addendum"). The preliminary application shall state in the addendum whether or not the boundaries of the originally proposed application area have been changed.

(1) If the boundaries of the originally proposed application area have been changed, the addendum shall contain:

(A) A description of the new geographic boundaries of the application area; and

(B) An amendment to any part of the preliminary application that is affected by the change in the application area.

(2) If the originally proposed application area has not been changed, the addendum shall identify the reason why a change is not necessary.

(c) The addendum shall be signed by a majority of the members of each governing body with jurisdiction in the application area. The preliminary applicant shall submit the original of the addendum, together with six (6) copies thereof, to the Agency on or before the due date specified in subsection (d).

(d) Preliminary applicants shall submit the addendum to the Agency no later than fourteen (14) days after the notice of the invalid area is mailed by the Agency. The Agency shall reject, without review, any addendum submitted after the due date.

(1) If, after the Agency's review of the addendum received on or before the due date, the application area continues to contain an invalid area, the Agency shall disqualify the preliminary application and no further review of the preliminary application shall be conducted.

(2) If, after the review, the application area identified by the preliminary application no longer contains an invalid area, the preliminary application, with the amended boundaries, shall be qualified to undergo further review by the Agency.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending subsections (a)(3) and (d)–(d)(2) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5610 to title 25, section 8442.9 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.10. Selection of Final Applicants.

(a) Except for small cities enterprise zone designation, the Agency shall select a maximum of twenty (20) highest scoring preliminary applications to complete a final application, as determined by the evaluation and grading provisions contained in articles 6 and 7. The Agency shall select a maximum of five (5) highest scoring small cities enterprise zone preliminary applications to complete a final application, as determined by the evaluation and grading provisions contained in articles 6 and 7.

(b) Notwithstanding subsection (a) above, if, except for a small cities designation, there is a tie for the twentieth highest score and, as a result of the tie, more than twenty preliminary applications receive the twenty highest scores, the Agency shall eliminate from further competition each preliminary application receiving the twentieth highest score. In the case of a small cities enterprise zone designation, if there is a tie for the fifth highest score and, as a result of the tie, more than five preliminary applications receive the five highest scores, the Agency shall eliminate from further competition each preliminary application receiving the fifth highest score.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7073 and 7039.9, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Amendment of section heading, text and NOTE filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section heading, section and NOTE as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of section heading, section and NOTE filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Change without regulatory effect renumbering title 10, section 5611 to title 25, section 8442.10 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8442.11. Notice of Decision; Enterprise Zone Final Application Handbook.

(a) The Agency will notify each preliminary applicant in writing of the results of the preliminary application evaluation. The notice shall inform the applicant of the score attained by the preliminary applicant and shall identify the preliminary applications which have been awarded final applicant status. The notice shall be mailed within sixty (60) days after the due date for preliminary applications.

(b) A copy of the Enterprise Zone Final Application Handbook shall be included with the notice sent to each preliminary applicant awarded final applicant status.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending subsection (a) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5611.1 to title 25, section 8442.11 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 7. Final Applications

§ 8443. Final Application Requirements.

Final applicants shall prepare a final application. The final application shall contain the information specified in sections 8443.2, 8443.3, 8443.4, and 8449.5. The final application for a small cities enterprise zone designation shall also include the information required by section 8443.9.

NOTE: Authority cited: Sections 7073 and 7076, Government Code; and Section 21082, Public Resources Code. Reference: Sections 7071, 7073, 7039.9 and 7075, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Amendment of section and NOTE filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section and NOTE as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
5. Amendment of section and NOTE filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
6. Change without regulatory effect renumbering title 10, section 5612 to title 25, section 8443 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8443.1. Modification of Application Area Boundaries; Agency Decision.

(a) A final applicant shall not modify the boundaries of the application area contained in the preliminary application unless the Agency has approved of the modification prior to the final application due date contained in the Enterprise Zone Final Application Handbook.

(b) A final applicant shall not be permitted to add a geographic area to the application area contained in the preliminary application if the addition includes any area under the jurisdiction of a city, county or city and county that did not submit a section 8442.8 resolution as part of the preliminary application.

(c) A final applicant which desires to modify the boundaries of the application area contained in the preliminary application shall submit the following information to the Agency:

(1) Documents that show that any area(s) being proposed for addition to the application area:

(A) 1. For a new commercial area, is contained within or contiguous with, the application area contained in the preliminary application. As used this subsection (c)(1)(A) "new" means that the preliminary application did not contain a commercial or industrial area; or

2. For a new industrial area where one did not exist before, is contained within or adjacent to, the application area contained in the preliminary application; and

(B) Represent no more than five percent (5%) of the total geographic area of the application area contained in the applicant's preliminary application;

(2) If the area(s) to be added include commercial and/or industrial areas, documents that show that the area(s) are at least 51% zoned commercial and/or industrial and documents show that the modified application area contains both one eligible area plus one commercial and/or industrial area;

(3) If the area(s) to be added includes an expanded eligible area, evidence that shows that the eligible area complies with the petition or eligible area criteria contained in articles 4 and 5;

(4) An updated boundary description for the modified application area, and a zoning or land use map for the area(s) being added or deleted;

(5) A resolution by the governing body of each city, county or city and county that has jurisdiction within the geographic area being added or deleted approving of the modification to the boundaries of the application area. If a geographic area is being added, the resolution shall contain the findings required by section 7073(a) of the Government Code; and

(6) A statement containing the reasons for the change to the application area.

(d) The Agency shall approve or disapprove of a modification to the boundaries of an application area by mailing a written notification within fourteen (14) days of receipt of a request for modification. Approval or denial of the request shall be based upon the final applicant's compliance with subsection (c) above. The information required in the final application and by sections 8449 through 8449.7 shall reflect any modification approved for the application area.

NOTE: Authority cited: Sections 7073 and 7076, Government Code; and Section 21082, Public Resources Code. Reference: Sections 7071, 7073 and 7075, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section heading and subsections (a), (c) and (d) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5612.1 to title 25, section 8443.1 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8443.2. Final Economic Development Plan and Evaluation Criteria.

Each final application shall contain a Final Economic Development Plan. The Final Economic Development Plan shall contain the information and data specified in this section, except for a small cities enterprise zone, which shall contain both the information required by this section and section 8443.9. The Agency shall evaluate and numerically grade each Final Economic Development Plan on a competitive basis, based upon the categories and corresponding point values set forth below and, for small cities enterprise zones, the categories and point values set forth in section 8443.9, and the scoring method set forth in section 8444.2.

(a) The data and information required by Section 8442.7: up to 950 points.

The Final Economic Development Plan shall contain all of the data and information required by the Preliminary Economic Development Plan. The final applicant shall submit the original information and data as previously presented in its Preliminary Economic Development Plan and, if the final applicant desires, submit new or modified information and data in addition to that originally presented in the Preliminary Economic Development Plan.

(b) Infrastructure: up to 150 points.

The Final Economic Development Plan shall contain a detailed analysis and description of the availability and condition of the infrastructure within the industrial and commercial area. The analysis and description shall include the condition, capacity to deliver service and available capacity of:

(1) Water supply;

(2) Storm drainage;

(3) Sewer and waste treatment plant;

(4) Natural gas and electric; and

(5) Streets and street lighting;

(6) Any other indicators of the capacity, condition and availability of the infrastructure within the industrial and commercial area.

The Final Economic Development Plan shall describe all plans to expand or improve the infrastructure, including the projected costs, proposed financing and the time tables for completion.

(c) Program Management: up to 150 points.

The Final Economic Development Plan shall contain a detailed description of the annual budget(s), staff and organization for administration of the proposed enterprise zone. The description shall include:

(1) The applicant's annual line item budget and the source of funding that the applicant will commit for the administration of the proposed enterprise zone.

(2) The annual budgets (dollars) for each agency; or organization, other than the applicant, which has been identified in subsection (a) as providing marketing, job development, and other aspects of implementing the Final Economic Development Plan.

(3) The names(s) of the person(s) who will act as the enterprise zone coordinator(s) and administer the proposed enterprise zone on a full time basis. The enterprise zone coordinator(s) shall spend at least half of his or her time contacting businesses.

(4) An organization chart that shows all persons and organizations involved in all aspects of the proposed enterprise zone, including marketing, job development, financing and administration, together with their reporting relationship to the enterprise zone coordinator. The organization chart shall also define the coordinator's reporting relationship to or in the applicant jurisdiction(s). The organization chart shall show people by name and/or job title, and not the agency or agency identified as a general area.

(5) Any other indicators of program management for the proposed enterprise zone.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7071 and 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending opening paragraph and subsection (c)(4) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Amendment of opening paragraph, subsections (b) and (b)(3) filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of first paragraph and subsections (b) and (b)(3) as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
6. Amendment of first paragraph and subsections (b) and (b)(3) filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
7. Change without regulatory effect renumbering title 10, section 5612.2 to title 25, section 8443.2 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8443.3. Additional Requirements for Final Applications.

Each final application shall contain the following information:

(a) Letters from the administrators of all cities, counties, agencies, organizations, financial institutions and businesses which have been identified as program participants in the preliminary and final applications.

The letters shall include the specific commitments that the organization will make to the proposed enterprise zone, not general statements of support. The statements shall also identify staff, staff time, and/or funds committed to the proposed enterprise zone.

(b) A list containing the names and addresses of all businesses in the application area with twenty-five (25) or more employees.

(c) A list containing an inventory of all industrial and commercial buildings and sites for sale or lease in the application area.

(d) A list of the names and addresses of all commercial real estate brokers who will handle real estate transactions in the proposed enterprise zone.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7071 and 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5612.3 to title 25, section 8443.3 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8443.4. Number of Copies; Applicant Name; Principal Contact Person.

(a) Final applicants shall submit 6 copies, plus 1 signed and clearly identified original of the final application to the Agency.

(b) The final application shall contain:

(1) The name(s) and address(es) of the applicant(s); and

(2) The final applications shall include the name, address and phone number of the principal contact person.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending subsection (a) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5612.4 to title 25, section 8443.4 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8443.5. Final Application Deadline.

(a) Final applications shall be received by the Agency no later than 5:00 pm on the one hundred and twentieth (120th) day after the day the final applications were mailed. The mailing and deadline dates shall be specified in the Enterprise Zone Final Application Handbook.

(b) The Agency shall reject any final application received after the due date for the final applications. The Agency shall mail to the applicant within ten (10) days of receipt of the final application a statement that the applicant's final application was received after the due date and was thereby rejected by the Agency.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073 Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending subsection (b) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5612.5 to title 25, section 8443.5 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8443.6. Review Limited to Information in Final Application.

(a) The Agency shall review final applications solely upon the information received by the Agency on or before the due date for final applications.

(b) The Agency reserves the right to contact final applicants after the due date for final applications to obtain clarification of submitted information, but not to obtain additional information.

NOTE: Authority cited: Sections 7073 and 7076, Government Code; Section 21082, Public Resources Code. Reference: Sections 7071, 7073 and 7075, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5612.6 to title 25, section 8443.6 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8443.7. Selection of Final Applicants for Conditional Designation.

(a) Except for a small cities enterprise zone, the Agency shall award conditional designation to no more than eight (8) highest scoring final applications during each designation process. If there is a tie and more than one final applicant achieves the eighth highest score, the Agency shall disqualify from further competition each final applicant tied for the eighth position. For a small cities enterprise zone designation, the Agency shall award conditional designation to no more than the two (2) highest scoring final applications. If there is a tie and more than one final applicant achieves the second highest score, the Agency shall disqualify from further competition each final applicant tied for the second position.

(b) Notwithstanding subsection (a) above, the Agency shall designate a maximum of 25 enterprise zones plus 2 small cities enterprise zones.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7073 and 7073.9, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Amendment of former subsections (a) and (b) filed 5–28–91 as an emergency; operative 5–28–91 (Register 91, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–25–91 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 9–22–92 by operation of Government Code section 11346.1(f) (Register 92, No. 40).
5. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
6. Amendment of section and NOTE filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section and NOTE as they existed prior to emergency amendment filed 2–6–95 by operation of Government Code section 11346.1(f) (Register 95, No. 6).
8. Amendment of section and NOTE filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
9. Change without regulatory effect renumbering title 10, section 5612.7 to title 25, section 8443.7 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8443.8. Notification of Agency Decision.

The Agency shall notify all final applicants in writing within ninety (90) days from the date the final applications were due, stating which final applications have been awarded conditional designation status.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference Section 7073, Government.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No.14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section heading and text filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5612.8 to title 25, section 8443.8 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8443.9. Small Cities Enterprise Zone Information.

Final applicants for small cities enterprise zone designation shall supplement the section 8443.2 Final Economic Development Plan with the following information as part of the final application:

(a) Job development: up to 175 points.

A Final Economic Development Plan including a detailed explanation of the plan to identify, train and place application area unemployed and underemployed persons into the jobs created through the marketing of the application area. The Final Economic Development Plan shall also include the following information:

(1) A list containing the names and addresses of all administrative agencies and/or contractors who will provide intake and/or job development services in the application area under the Job Training Partnership Act (JTPA) (29 USC Section 1501 et seq), Greater Avenues for Independence (GAIN) (Welfare and Institutions Code Section 11320 et seq), and Targeted Jobs Tax Credit (TJTC) (26 USC Section 51), and which will provide funds and staff for the implementation of the plan;

(2) A detailed explanation of the specific contributions that each agency and/or contractor shall make for the implementation of the Final Economic Development Plan;

(3) A detailed explanation of how the recipients of JTPA, GAIN, and TJTC services will be placed in enterprise zone jobs. The applicant shall include a detailed explanation of the coordination of marketing efforts with job development agencies and/or contractors;

(4) Data that shows the track record of job placements by each agency and/or contractor over the two (2) years preceding the date the preliminary applications were mailed by the Agency;

(5) A detailed organization chart showing all staff persons providing job development management and services for each agency and/or contractor identified in the Final Economic Development Plan as well as all job development coordination staff of the applicant; and

(6) Any other indicators of the applicant's job development plans for the application area.

(b) Local incentives: up to 125 points.

The Final Economic Development Plan shall include a detailed description of the local incentives provided by the applicant and a detailed explanation of how the proposed local incentives will stimulate business investment in the application area. The following information shall be included in the Final Economic Development Plan:

(1) An explanation of the plans to reduce fees for application area business, including development fees, license fees, and permit fees;

(2) An explanation of methods to be employed to reduce the administrative processing time required for plan review and permit applications for application area businesses;

(3) An explanation of the land use plan, together with maps of the application area that forecast local zoning plans for the next 5 to 10 years to ensure that the projected zoning plans are consistent with the plan; and

(4) Any other indicators of the applicant's plans for application area incentives.

(c) Financing programs: up to 100 points.

The Final Economic Development Plan shall contain a detailed description of the current and proposed financing programs that will be targeted to businesses within the application area. The description shall include the following information:

(1) A list containing the identity of all agencies, organizations and firms that will provide financial assistance to businesses within the application area;

(2) An explanation of the types of services each entity identified in subsection (a)(1) above offers and a detailed record of the companies that have received financial assistance during the three (3) year period prior to the date the preliminary application was mailed by the Agency;

(3) The identity of all financial institutions with facilities in or near the application area that have expressed an interest in making business loans to companies located in the application area, and a list of those financial institutions which are presently making loans guaranteed by the United States Small Business Administration;

(4) A detailed explanation of the loans available through programs offered by the applicant, together with data showing the result of these loan programs for the three year period immediately prior to the date the final applications were mailed by the Agency; and

(5) Any other indicators of the applicant's financing program.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7073 and 7073.9, Government Code.

HISTORY

1. New section filed 5–24–94 as an emergency; operative 5–24–94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 11–21–94 pursuant to Government Code section 7076 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 95, No. 6).
3. New section filed 3–14–95; operative 3–14–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
4. Change without regulatory effect renumbering title 10, section 5612.9 to title 25, section 8443.9 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 8. Application Evaluation and Scoring

§ 8444. Technical Review of Applications.

(a) The Agency shall conduct a technical review of each application received on or before the due date specified in the Enterprise Zone Preliminary Application Handbook or in the Enterprise Zone Final Application Handbook. The Agency shall determine whether the application is complete.

(b) The Agency shall mail an "application notification letter" to the applicant within twenty–one days after the due date. The application notification letter shall inform the applicant whether the application is complete. The application notification letter shall contain a list specifying any information or documents missing from the application and shall inform the applicant that the missing information or documents must be submitted to the Agency within fourteen (14) days after the date the application notification letter was mailed.

(c) The Agency shall disqualify an applicant which fails to submit all items listed as missing in the application notification letter on or before 5:00 p.m. on the fourteenth (14th) day after the date the application notification letter was mailed.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).

4. Change without regulatory effect renumbering title 10, section 5613 to title 25, section 8444 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8444.1. Preliminary Substantive Review of Applications.

(a) The Agency shall conduct a preliminary substantive review of each application received on or before the due date specified in the Enterprise Zone Preliminary Application Handbook or in the Enterprise Zone Final Application Handbook. The Agency shall determine whether there are any issues or questions in the application that require clarification prior to scoring the application.

(b) If there are issues or questions that need clarification prior to scoring the application, the Agency shall mail a "preliminary substantive review letter" to the applicant within twenty-eight days after the application due date. The preliminary substantive review letter shall specify the issues or questions that need clarification prior to scoring the application and shall inform the applicant that the applicant must provide the Agency with information which will clarify the issues or questions identified by the preliminary substantive review within fourteen (14) days after the date the preliminary substantive review letter was mailed.

(c) The Agency shall begin its evaluation and scoring of applications after 5:00 p.m. on the fourteenth (14th) day after the date the preliminary substantive review letter was mailed, regardless of whether or not information has been provided by the applicant and whether or not issues or questions concerning any application have been clarified.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5613.1 to title 25, section 8444.1 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8444.2. Scoring Applications.

After an evaluation, the Agency shall numerically grade each economic development plan criteria contained in the Preliminary Economic Development Plan, or the Final Economic Development Plan, based upon the following scoring method:

(a) Excellent: 90% to 100% of the maximum points available for the economic development plan criteria.

(b) Good: 80% to 89% of the maximum points available for the economic development plan criteria.

(c) Fair: 70% to 79% of the maximum points available for the economic development plan criteria.

(d) Satisfactory: 60% to 69% of the maximum points available for the economic development plan criteria.

(e) Poor: zero (0)% to 59% of the maximum points available for the economic development plan criteria.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending opening paragraph filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5613.2 to title 25, section 8444.2 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8444.3. Qualifying Scores; List of Scores.

(a) The Agency shall disqualify from competition an application that receives a score that is less than sixty percent (60%) of either:

(1) The total number of points available for criteria specified in either the Preliminary Economic Development Plan or the Final Economic Development Plan; or

(2) The number of points available for any one (1) of the following economic development plan criteria:

(A) Marketing the zone;

(B) Available property and businesses; or

(C) Job development.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending subsections (a) and (b) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5613.3 to title 25, section 8444.3 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 9. Conditional and Final Designation

§ 8445. Conditional Designation.

(a) The Agency shall mail a "conditional designation document" to the final applicants which have been awarded conditional designation status.

(b) The Agency shall specify in the conditional designation document the conditions which must be satisfied prior to final designation. The conditions shall consist of providing to the Agency all street address ranges for the application area plus all items included in the final applicant's Final Economic Development Plan which have not been completed as of the date the conditional designation document was mailed. The conditions must be met within one hundred and eighty (180) days of the date the Agency mails the conditional designation document, unless an extension or modification of the conditional designation document is granted pursuant to section 8445.2.

(c) Failure to satisfy all of the conditions within one hundred and eighty (180) days will result in automatic forfeiture of conditional designation status, unless the final applicant receives an extension of the conditional designation deadline pursuant to section 8445.2.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending subsection (a) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5614 to title 25, section 8445 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8445.1. Effective Date of Enterprise Zone Designation.

None of the benefits or responsibilities of designation as an enterprise zone shall become effective until final designation.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).

3. Change without regulatory effect renumbering title 10, section 5615 to title 25, section 8445.1 section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8445.2. Extension of Conditional Designation Deadline; Modification of Conditional Designation Document.

(a) A final applicant which is awarded conditional designation shall be permitted to submit a request to the Agency to either:

(1) extend the time within which the final applicant must satisfy the conditions stated in the section 8445 conditional designation document; or

(2) modify the conditions.

The request shall be received by the Agency prior to the expiration of the one hundred and eighty (180) day time period stated in the conditional designation document.

(b) The final applicant shall describe the actions taken by the final applicant to comply with the conditional designation document, and shall provide a detailed explanation of the reasons why the final applicant cannot satisfy all of the conditions precedent to final designation within one hundred and eighty (180) days.

(c) The Agency shall grant the request for an extension of time based upon a finding that the final applicant has substantially complied with the terms of the conditional designation document within the one hundred and eighty (180) day period, and that the final applicant requires an additional time period within which to comply with all of the terms of the conditional designation document or that the final applicant needs to modify the terms of the conditional designation document.

(d) Notwithstanding subsection (c) above, the Agency shall deny the request if a modification of the terms of the conditional designation document would result in the final applicant receiving a lower score on the section 8443.2 Final Economic Development Plan than attained when the final application was originally evaluated and scored.

(e) The Agency shall respond in writing to the request for a time extension within twenty–one (21) days after receipt of the request. If the Agency grants a time extension, the Agency's response shall specify the conditions which must be satisfied, together with the time deadline by which those conditions must be satisfied before the Agency will award final designation.

(f) Simultaneous to granting the request, the Agency shall amend the conditional designation document to include any amendments requested by the final applicant and approved by the Agency.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending subsections (e)–(f) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5616 to title 25, section 8445.2 and amending section filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8445.3. Request for Final Designation.

(a) Final applicants awarded conditional designation shall request final designation by mailing to the Agency, within the time limit specified in the conditional designation document, evidence that the final applicant has complied with all of the conditions precedent to final designation.

(b) The Agency shall respond in writing to the above described request within thirty (30) days after receipt of the request.

(c) The Agency's response shall either grant final designation to the final applicant with conditional designation, or specify the deficiencies which must be corrected within the time period specified in the conditional designation document before the Agency will award final designation.

(d) Final designation becomes effective on the day the letter awarding final designation is mailed to a final applicant with conditional designation.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Sections 7071 and 7075, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending subsections (a) and (c) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5617 to title 25, section 8445.3 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 10. Expansion of Existing Enterprise Zones and Program Areas

§ 8446. Scope of Article.

For the purposes of this article:

(a) The regulations contained in this article shall apply to programs established pursuant to chapter 12.8 (commencing with section 7070, Government Code) and to programs established pursuant to Chapter 12.9 (commencing with section 7080, Government Code).

(b) "Expansion request" shall mean a written document that proposes to enlarge the geographic area previously designated as an enterprise zone or a program area.

(c) "Expansion area" shall mean the geographic area to be made part of the geographic area that comprises the existing enterprise zone or program area.

NOTE: Authority cited: Sections 7073, 7076 and 7085, Government Code. Reference: Sections 7073 and 7085, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order including new section 5618 and renumbering and amendment of former section 5618 to section 5619 transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5618 to title 25, section 8446 and amending NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8446.1. Expansion Requests; Fifteen Percent Expansion.

The Agency shall approve an expansion request, provided the expansion area meets all of the following requirements:

(a) The expansion area for each city, county or city and county shall not exceed fifteen percent (15%) of the geographic area within its boundaries originally designated as an enterprise zone, or as a program area, but the expansion need not occur all at once.

(b) An expansion request shall be submitted to the Agency by each city, county, or city and county with jurisdiction over the enterprise zone and or the program area and jurisdiction over the expansion area. The expansion request shall be in writing and shall contain the following information.

(1) A resolution adopted by the governing body of each city, county, or city and county agreeing to expand the enterprise zone or the program area to include the expansion area;

(2) The expansion area acreage and zoning;

(3) The total acreage of the original enterprise zone or program area within the boundaries of each city, county or city and county;

(4) A description of the revised enterprise zone or program area boundaries, together with maps showing the enterprise zone or program

area and the expansion area. The description and maps shall describe and show the geographic areas at the time the expansion request was filed with the Agency;

(5) Street address ranges and Agency supplied maps for the existing enterprise zone or program area must accurately reflect the current state of the geographic area at the time the expansion area request was filed with the Agency; and

(6) Documents that show that each area being proposed for the expansion of the existing enterprise zone or the program area is contiguous with the area of the existing enterprise zone or the program area.

NOTE: Authority cited: Sections 7073, 7076, and 7085, Government Code. Reference: Section 7073, 7076 and 7085, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order including renumbering and amendment of former section 5618 to section 5619 and former section 5619 to section 5620 transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending opening paragraph and subsections (b)(4)–(5) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending subsections (a)(4)–(5) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5619 to title 25, section 8446.1 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8446.2. Expansion Request Decision; Notice.

(a) The Agency shall notify the city, county, or city and county which submitted the expansion request of its decision to approve or deny expansion request within thirty (30) days of receipt of the expansion request.

(b) For expansion requests approved by the Agency, the expansion shall be effective as of the date the approval letter is mailed.

(c) For expansion requests denied by the Agency, the notice shall specify deficiencies identified in the expansion area request. A jurisdiction whose expansion area request was denied shall not be precluded from submitting another expansion request.

NOTE: Authority cited: Sections 7073, 7076, and 7085, Government Code. Reference:Section 7073, 7076 and 7085 Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order including renumbering and amendment of former section 5619 to section 5620 and former section 5620 to section 5621 transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending opening paragraph and subsections (b)(4)–(5) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending subsections (b) and (c) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5620 to title 25, section 8446.2 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 11. Finality of Agency Decisions; Meeting with Enterprise Zone Program Manager

§ 8447. Finality of Agency Decisions; Meeting with Enterprise Zone Program Manager.

(a) Agency decisions shall be final and no appeal is available within the Agency. An applicant shall not petition the Agency for rehearing nor request a written explanation of any Agency decision.

(b) Applicants shall have the right to request a meeting with the Agency's Enterprise Zone Program Manager, at which time the Agency's Enterprise Zone Program Manager shall explain the reasons for any of the Agency's decisions pursuant to this chapter.

NOTE: Authority cited: Sections 7073 and 7076, Government Code. Reference: Section 7073, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order including renumbering and amendment of former section 5620 to section 5621 transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending article heading, section heading and text filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending section heading filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5621 to title 25, section 8447 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 12. Targeted Tax Area

§ 8448. Definitions.

The following definitions shall apply to the regulations contained in this article, in addition to the definitions contained in Government Code section 7072:

(a) "Act" means the Targeted Tax Area Act, Government Code section 7097.

(b) "Agency" means the Department of Housing and Community Development.

(c) "Applicant" means a city, a county, or a city(ies) and county that submits an Application to the Agency to have a geographical area in its Jurisdiction designated as a Targeted Tax Area. A county and any cities within the county may apply jointly as a single Applicant provided that a portion of the Application Area is located within each Applicant's jurisdiction.

(d) "Application" means the written application submitted to the Agency, by an Applicant. The Application shall contain the information described in sections 8448.4, 8448.5, 8448.6, 8448.7, and 8448.8.

(e) "Application Area" means the geographical area for which the Applicant is seeking Conditional Designation. The Application Area shall be wholly contained within the Eligible Area identified in the Application.

(f) "Community" means the geographical area within a county, a city, or a county and city(ies) within that county, where is all or part of the Eligible Area identified in the Application.

(g) "Conditional Designation" means designation by the Agency of an Applicant's Application Area as a Targeted Tax Area, subject to the Final Applicant's completion of the conditions necessary for Final Designation specified in the Conditional Designation Document described in section 8448.12.

(h) "Decennial Census" means the population survey of the United States conducted every ten years by the United States Department of Commerce, Bureau of the Census.

(i) "Designation Process" means all steps described in sections 8448.1 through 8448.15 which are required for Final Designation, including determination of eligibility, submission of an Application, Conditional Designation and Final Designation.

(j) "Distressed Area" means a geographical area that meets at least four of the following requirements:

(1) The average unemployment rate exceeded 7.5 percent in 1995;

(2) The average unemployment rate exceeded 7.5 percent in 1996;

(3) The median family income does not exceed $32,700, using the most currently available data at the time of Application deadline.

(4) The percentage of persons below the poverty level is at least 17.5 percent, using the most currently available data at the time of Application deadline;

(5) The geographical area ranks in the top quartile among California counties, in the percentage of population receiving Aid for Families with Dependent Children benefits, based on the Cash Grant Caseload Movement and Expenditures Report, July 1995 to June 1996 published by the California Department of Social Services.

(k) "Eligible Area" means a geographic area that meets the requirements of section 8448.2.

(l) "Targeted Tax Area" means an Application Area contained in an Application awarded Final Designation status by the Agency.

(m) "Final Applicant" means the Applicant which has been awarded Conditional Designation status by the Agency.

(n) "Final Designation" means that the Applicant with Conditional Designation status has completed, to the satisfaction of the Agency, all conditions of the Conditional Designation and that designation of the Applicant's Application area as a Targeted Tax Area is final and complete. The Agency shall provide notice of Final Designation to the Final Applicant.

(o) "Infrastructure" means the physical systems and services which support development and people, including, but not limited to, streets, and highways, transit services, airports, and water and sewer systems.

(p) "Jurisdiction" means the geographic area where the Applicant has authority to enforce ordinances and resolutions.

(q) "Median Family Income" means the median family income for that Jurisdiction using the most currently available data at the time of Application.

(r) "Percentage of Persons Below Poverty" means the percentage for that Jurisdiction using the most currently available data at the time of Application.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097, Government Code.

HISTORY

1. New article 9.5 (sections 5622–5622.15) and section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622 to title 25, section 8448 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.1. Targeted Tax Designation Process.

(a) The Agency shall designate one Application Area as a Targeted Tax Area provided each of the following requirements is satisfied:

(1) A county and/or city(ies) located within the Application Area submits an Application to the Agency pursuant to section 8448.4.

(2) The Agency has awarded the Application Area both Conditional and Final Designation status, pursuant to sections 8448.12 and 8448.15.

(b) In designating the Targeted Tax Area, the Agency shall compare all of the Applications submitted, and award the Targeted Tax Area designation to the Applicant which proposes the most effective, innovative, and comprehensive programs and incentives to attract private sector investment.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a), (d), and (f), Government Code.

HISTORY

1. New section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622.1 to title 25, section 8448.1 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.2. Eligible Area.

(a) To be eligible for designators as a Targeted Tax Area, a geographic Area shall meet the following requirements:

(1) The geographic are shall be Distressed, pursuant to section 8448(j).

(2) The geographic area shall be wholly contained within the Applicant's Jurisdiction(s).

(3) The geographic area shall be included in the Application of only one Applicant.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a) and (f), Government Code.

HISTORY

1. New section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622.2 to title 25, section 8448.2 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.3. Address of Agency.

The following is the Agency mailing address for any and all correspondence, Applications, petitions, documents, and other materials concerning Targeted Tax Areas:

ENTERPRISE ZONE PROGRAM MANAGER
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
P.O. BOX 942054
SACRAMENTO, CALIFORNIA 94252–2054

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a), Government Code.

HISTORY

1. New section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622.3 to title 25, section 8448.3 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.4. Application Process.

(a) The Agency shall mail a letter describing the Application process and Application deadlines on the first day of the Application time period to each entity or person who has previously requested receipt of an Application.

(b) Each Applicant shall submit a letter to the Agency stating their intention to submit an Application, "Letter of Intent." The Letter of Intent shall be received by the Agency no later than 5 p.m., thirty (30) days following the mailing of the letter described in subsection (a). The Letter of Intent shall also contain documentation that the Applicant meets the eligibility requirements described in subsection 8448(c).

(c) Applicants shall submit to the Agency, one (1) clearly signed original and two (2) copies of the Application, plus one additional copy of the section 8448.6 Economic Development Plan, with each part of the Plan, as described in subsections 8448.6(a) through 8448.6(e), bound separately. Applications shall be received by the Agency no later than 5 p.m. on the due date described in the subsection (a) letter. The Agency shall reject any Application received after the due date described in the subsection (a) letter. The Application shall include the following items:

(1) The names(s) and address(es) of the Applicant(s).

(2) The name, address, phone number, and if available, e–mail address of the principal contact person for the Application.

(3) A description of the Application Area, pursuant to section 8448.5.

(4) An Economic Development Plan, pursuant to section 8448.6.

(5) An environmental impact report, pursuant to section 8448.7.

(6) A resolution, pursuant to section 8448.8.

(d) The Agency shall only review information received by the due date described in the subsection (a) letter, except as provided for in sections 8448.10 and 8448.14. However, the Agency shall be authorized to contact Applicants after the due date to obtain clarification of previously submitted information.

(e) No later than sixty (60) days following the due date described in the subsection (a) letter, the Agency shall mail a letter notifying each Applicant of the results of the Application evaluation. The notice shall include the score attained by the Applicant.

(f) No later than fourteen (14) days following the due date described in subsection (e), the Agency shall mail a Conditional Designation document to the Final Applicant specifying the conditions the Final Applicant shall satisfy prior to Final Designation.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a) and (d), Government Code.

HISTORY

1. New section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).

2. Change without regulatory effect renumbering title 10, section 5622.4 to title 25, section 8448.4 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.5. Description of the Application Area.

(a) The Application shall include a description of the proposed Application Area which includes the following items:

(1) A map or other documentation identifying the exact geographic location of the Application Area.

(2) A map which indicates that the Application Area is wholly contained within an Eligible Area.

(3) A street map that identifies the streets, or jurisdictional limit lines that mark the boundaries of the Application Area.

(4) A copy of both the existing general zoning and land use maps for the Application Area and the area immediately surrounding the Application Area.

(5) A list containing the names and addresses of all eligible businesses in the Application Area with twenty–five (25) or more employees. Eligible businesses are those with the following Standard Industrial Classification codes (United States Office of Management and Budget, Standard Industrial Classification Manual, 1987) 2000–2099, 2200–3999, 4200–4299, 4500–4599, and 4700–5199.

(6) A list containing an inventory of all industrial buildings and sites for sale or lease in the Application Area.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a) and (f), Government Code.

HISTORY

1. New section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).

2. Change without regulatory effect renumbering title 10, section 5622.5 to title 25, section 8448.5 and amending NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.6. Economic Development Plan.

Each Application shall include an Economic Development Plan. The Agency shall evaluate and numerically grade each Economic Development Plan on a competitive basis, based upon the categories and the corresponding point values set forth below and the scoring method described in section 8448.11. The Economic Development Plan shall include the items described in subsections (a) through (e) below:

(a) Marketing the Targeted Tax Area: up to 300 points.

The Economic Development Plan shall contain a detailed marketing plan for the Application Area. The marketing plan shall include the following information:

(1) An explanation of the specific marketing goals and the course(s) of action to be taken in order to attain the specified goals:

(2) A detailed description of the plans to:

(A) Keep existing businesses from leaving the Application Area; and

(B) A detailed description of the plan to help existing businesses to expand;

(3) A detailed description of the plans to attract new businesses into the Application Area. In the description, the Applicant shall identify the types of industries targeted for attraction.

(4) A detailed description of the role of the local economic development corporation, or similar organization;

(5) A detailed description of the sales plan for on–site visits to existing and/or new businesses;

(6) A detailed analysis of the advertising and promotional strategy, including a media analysis and samples of existing advertising and promotional materials;

(7) A detailed analysis of the staff, organization and budgets to be committed to the marketing plan by all organizations;

(8) Specific examples of successful efforts by the corporations or organizations identified in subsection (a)(4) above to attract and/or retain businesses;

(9) A list of all Application Area commercial real estate brokers who will handle real estate transactions within the Application Area; and

(10) Infrastructure: a detailed analysis and description of the availability and condition of the infrastructure within the industrial or commercial (as appropriate according to the type of businesses identified in subsection (a)(3) above) area. The analysis and description shall include the condition, capacity to deliver service, and available capacity of:

(A) Water supply;

(B) Storm drainage;

(C) Sewer and waste treatment plant;

(D) Natural gas and electric; and

(E) Streets and street lighting;

(F) Any other indicators of the capacity, condition and availability of the infrastructure within the Application Area.

(11) A description of all plans to expand or improve the infrastructure, including the projected costs, proposed financing and the time tables for completion.

(12) A list of all agencies, organizations and firms that will provide financial assistance to businesses within the Application Area.

(13) An explanation of the types of services each entity identified in subsection (a)(14) offers and a detailed record of the companies that have received financial assistance during the three (3) year period prior to the date the section 8448.4(a) letter was mailed by the Agency.

(14) A list of all financial institutions with facilities located in or near the Application Area that have expressed an interest in making business loans to companies located in the Application Area. A list of those financial institutions which are presently making loans guaranteed by the United States Small Business Administration.

(15) A detailed description of the loans available through programs currently offered by the Applicant, together with data showing the result of these loan programs for the three (3) year period immediately prior to the date the section 8448.4(a) letter was mailed by the Agency.

(16) A description of any other financial incentive programs currently in existence.

(b) Job development: up to 200 points.

The Economic Development Plan shall contain a detailed description of the Applicant's plan to identify, train, issue vouchers, and place unemployed and under–employed persons residing in the Application Area into the jobs created through the marketing of the Application Area, "Job Development Plan". The Job Development Plan shall include the following items:

(1) A detailed description of the process for issuing hiring tax credit vouchers and placing employees in Targeted Tax Area jobs, including a discussion of the role of the one–stop hiring center in this process.

(2) A description of the Applicant's plan to implement the goals and objectives of CalWORKs (Chapter 2, commencing with section 11200, of Part 3 of Division 9 of the Welfare and Institutions Code).

(3) A detailed explanation of the specific resources that each agency and/or contractor shall contribute to the implementation of the Economic Development Plan.

(4) A detailed explanation of the coordination of marketing efforts with job development agencies and/or contractors.

(5) Data that shows the track record of job placements by each agency and/or contractor over the two (2) years preceding the date the Applications were mailed by the Agency.

(6) A detailed organization chart showing all staff persons providing job development management and services for each agency and/or contractor identified in the Economic Development Plan. The organization chart shall include the Applicant's job development coordination staff.

(7) Any other plans the Applicant will implement to develop jobs in the Application Area.

(c) Local Incentives; up to 300 points.

The Economic Development Plan shall include a detailed description of the local incentives to be provided by the Applicant and a detailed explanation of how the proposed local incentives will stimulate business investment in the Application Area. The following information shall be included in the Economic Development Plan:

(1) A description of any plans to reduce fees for businesses located in the Application Area, including development fees, license fees, and permit fees.

(2) A description of any plans to reduce the administrative processing time required for plan review and permit applications for businesses located in the Application Area.

(3) A description of any other incentives that will be offered through other entities such as Private Industry Councils or energy suppliers.

(4) A description of the land use plan, together with maps of the Application Area, that forecast local zoning plans for the next 5 to 10 years to ensure that the projected zoning plans are consistent with the Economic Development Plan.

(5) A description of any other incentives the Applicant will offer to businesses located in the Application Area.

(d) Program Management: up to 200 points.

The Economic Development Plan shall contain a detailed description of the annual budget(s), staff and organization for administration of the Application Area. The description shall include:

(1) The Applicant's proposed annual line item budget and the source of funding that the Applicant will commit for the administration of the Application Area.

(2) The annual budgets for each agency; or organization, other than the Applicant, which has been identified in subsection (e) as providing marketing, job development, and other aspects of implementing the Targeted Tax Area.

(3) The name(s) of the person(s) who will act as the Targeted Tax Area coordinator(s) and administer the Targeted Tax Area.

(4) An organization chart that shows all persons and organizations involved in all aspects of the Application Area, including marketing, job development, financing and administration, together with their reporting relationship to the Targeted Tax Area coordinator. The organization chart shall also define the coordinator's reporting relationship to or in the Applicant Jurisdiction(s). The organization chart shall identify persons involved in administering all aspects of the Application Area by name and/or job title, and not by the agency with whom they are affiliated.

(5) A detailed description of plans to ensure ongoing collaboration between the entities in multi-jurisdictional zones.

(6) Any other program management strategies for the proposed Targeted Tax Area.

(e) Letters from the administrators of all cities, counties, agencies, organizations, financial institutions and businesses which have been identified as program participants in subsections (a) through (d). The letters shall include the specific commitments that the organization will make to the Application Area, not general statements of support. The statements shall also identify staff, staff time, and/or funds committed to the Application Area.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a) and (d), Government Code.

HISTORY

1. New section filed 12-17-98; operative 12-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).

2. Change without regulatory effect renumbering title 10, section 5622.6 to title 25, section 8448.6 and amending section and NOTE filed 7-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.7. Environmental Impact Report.

(a) Upon filing an Application, each City and/or County constituting the Applicant, shall submit an initial study and, if appropriate, the notice of preparation to the Agency, the state clearinghouse, and all responsible agencies involved in the proposed Targeted Tax Area. The initial study and notice of preparation shall address the designation and implementation of the Targeted Tax Area.

(b) The Final Applicant shall prepare, or cause to be prepared, a negative declaration or draft environmental impact report, which shall set forth potential environmental impacts on the Application Area.

(c) Prior to Final Designation by the Agency, the Final Applicant shall complete and certify the negative declaration or final environmental impact report.

(d) All negative declarations or environmental impact reports submitted to the Agency shall comply with the information disclosure provisions and the substantive requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a), (d) and (f), Government Code.

HISTORY

1. New section filed 12-17-98; operative 12-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).

2. Change without regulatory effect renumbering title 10, section 5622.7 to title 25, section 8448.7 and amending NOTE filed 7-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.8. Resolution Required.

(a) Each Application shall include a certified original resolution adopted by each city or county having jurisdiction over any portion of an Application Area. An Application without a resolution(s) shall be rejected and no further review of the Application shall be conducted, except as provided for in sections 8448.10 and 8448.14. For each city or county that is an Applicant, the resolution(s) shall contain the following information:

(1) A finding that the Application Area is a Depressed Area, and that designation of the Application Area as a Targeted Tax Area is necessary in order to attract private sector investment to the Application Area; and

(2) A statement that the city(ies) and/or county agrees to perform all actions described within the Application which apply to its Jurisdiction should the Application be awarded Conditional Designation.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a) and (f), Government Code.

HISTORY

1. New section filed 12-17-98; operative 12-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).

2. Change without regulatory effect renumbering title 10, section 5622.8 to title 25, section 8448.8 and amending section and NOTE filed 7-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.9. Invalid Application Areas; Addendum to Application.

(a) The Agency shall send a notice by certified mail to each Applicant whose Application contains an invalid area. The notice shall contain a description of the invalid area, and an explanation as to why the area is invalid. For the purposes of this section, "invalid area" means an Application Area, or portion thereof, that is included in the Application of more than one Applicant or is not wholly contained within the boundaries of an Eligible Area.

(b) The Agency shall permit an Applicant whose Application contains an invalid area an opportunity to submit an addendum to the Application ("addendum"). The addendum shall indicate whether or not the boundaries of the originally proposed Application Area have been changed.

(c) The addendum shall be signed by a majority of the members of each governing body with Jurisdiction in the Application Area.

(d) The Applicant shall submit the original of the addendum, together with three (3) copies thereof, to the Agency no later than 5 p.m., fourteen (14) days after the subsection (a) notice is mailed by the Agency. The Agency shall reject, without review, any addendum submitted after the due date.

(e) If, after the Agency's review of the addendum received on or before the due date described in subsection (d), the Application Area continues to contain an invalid area, the Agency shall disqualify the Application and no further review of the Application shall be conducted.

(f) If, after the Agency's review of the addendum, the Application Area identified in the Application no longer contains an invalid area, the Application, with the amended boundaries, shall be qualified to undergo further review by the Agency.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a) and (f), Government Code.

HISTORY

1. New section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622.9 to title 25, section 8448.9 and amending NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.10. Technical Review of Applications.

(a) The Agency shall conduct a technical review of each Application received on or before the due date described in section 8448.4(b).

(b) The Agency shall mail an 'application notification letter' to inform the Applicant of the results of the technical review. The application notification letter shall indicate whether the following items are missing from the Application:

(1) A description of the Application Area, pursuant to section 8448.5,

(2) An environmental impact report, pursuant to section 8448.7,

(3) A resolution, pursuant to section 8448.8.

(c) Any missing information or documents listed in the application notification letter shall be submitted to the Agency no later than seven (7) days following the date the application notification letter was mailed. The Agency shall disqualify any Applicant which fails to submit all items listed as missing in the application notification letter by 5:00 p.m. on this date.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a) and (f), Government Code.

HISTORY

1. New section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622.10 to title 25, section 8448.10 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.11. Economic Development Plan Evaluation.

(a) The Agency shall evaluate and assign a numerical score to each Economic Development Plan criteria described in subsections 8448.6(a) through (d), or to the Economic Development Plan as a whole. The following scoring method shall be used:

(1) Excellent: 90% to 100% of the maximum points available for the Economic Development Plan criteria.

(2) Good: 80% to 89% of the maximum points available for the Economic Development Plan criteria.

(3) Fair: 70% to 79% of the maximum points available for the Economic Development Plan criteria.

(4) Satisfactory: 60% to 69% of the maximum points available for the Economic Development Plan criteria.

(5) Fail: zero (0)% to 59% of the maximum points available for the Economic Development Plan criteria.

(b) The Agency shall disqualify from competition an Application that receives a score that is less than sixty percent (60%) of the number of points available for any of the Economic Development Plan criteria described in subsections (b)(1) through (b)(4). The Agency shall award the Conditional Designation to the Final Applicant receiving the highest score.

(1) Marketing the Targeted Tax Area, pursuant to subsection 8448.6(a).

(2) Job development, pursuant to subsection 8448.6(b).

(3) Local incentives, pursuant to subsection 8448.6(c).

(4) Program management, pursuant to subsection 8448.6(d).

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a) and (d), Government Code.

HISTORY

1. New section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622.11 to title 25, section 8448.11 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.12. Conditional Designation.

(a) The Agency shall mail a "Conditional Designation document" to the Final Applicant.

(b) The Conditional Designation document shall specify any conditions which must be satisfied prior to Final Designation. The conditions shall include providing the Agency with all street address ranges for the Application Area, plus fulfilling all commitments made in the Final Applicant's Economic Development Plan which were contingent upon receiving conditional designation and have not been completed as of the date the Conditional Designation document was mailed. The conditions must be met no later than sixty (60) days following the date the Agency mails the Conditional Designation document.

(c) Failure to satisfy all conditions by the date specified in subsection (b) will result in automatic forfeiture of Conditional Designation status, unless the Applicant receives an extension to the Conditional Designation deadline pursuant to section 8448.14.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a), Government Code.

HISTORY

1. New section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622.12 to title 25, section 8448.12 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.13. Effective Date of Targeted Tax Area Designation.

None of the benefits or responsibilities of designation as a Targeted Tax Area shall become effective until the date of Final Designation described in subsection 8448.15(d).

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a), Government Code.

HISTORY

1. New section filed 12–17–98; operative 12–17–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622.13 to title 25, section 8448.13 and amending section and NOTE filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.14. Extension of Conditional Designation Deadline; Modification of Conditional Designation Document.

(a) An Applicant which is awarded Conditional Designation shall be permitted to submit a request to the Agency to either:

(1) Extend the deadline by which the Final Applicant must satisfy the conditions stated in the section 8448.12 Conditional Designation document; or

(2) Modify the conditions.

(b) The request for extension or modification shall be received by the Agency prior to the expiration of the deadline described in subsection 8448.12(b).

(c) The Final Applicant shall submit a letter to the Agency describing the actions taken by the Final Applicant to comply with the Conditional Designation document. The letter shall also include a detailed explanation of the reasons why the Final Applicant cannot satisfy all of the conditions by the deadline described in subsection 8448.12(b).

(d) The Agency shall grant the request for an extension of the deadline described in subsection 8448.12(b) upon a finding that the Final Applicant has substantially complied with the terms of the Conditional Designation document, and that the Final Applicant requires an additional time period to comply with the remaining terms of the Conditional Designation document or that the Final Applicant needs to modify the terms of the Conditional Designation document.

(e) Notwithstanding subsection (d) above, the Agency shall deny the request if a modification of the terms of the Conditional Designation document would result in the Final Applicant receiving a lower score on the Economic Development Plan criteria described in subsections 8448.6(a) through (d) than attained when the Application was originally evaluated and scored.

(f) The Agency shall respond in writing to the request for a time extension no later than thirty (30) days following receipt of the request. If the Agency grants a time extension, the Agency's response shall specify the

conditions which must be satisfied and the time deadline by which those conditions must be satisfied.

(g) Simultaneous to granting the request, the Agency shall amend the Conditional Designation document to include any amendments requested by the Final Applicant and approved by the Agency.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a), Government Code.

HISTORY

1. New section filed 12-17-98; operative 12-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622.14 to title 25, section 8448.14 and amending section and NOTE filed 7-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8448.15. Request for Final Designation.

(a) The Final Applicant shall request Final Designation by mailing to the Agency, within the time limit specified in the section 8448.12 Conditional Designation document, evidence that the Applicant has complied with all of the conditions necessary for Final Designation.

(b) The Agency shall respond in writing to the above described request no later than thirty (30) days following receipt of the request.

(c) In the response described in subsection (b) above, the Agency's shall either grant Final Designation to the Final Applicant, or specify the deficiencies which must be corrected within the time period specified in the section 8448.12 Conditional Designation document before the Agency will award Final Designation.

(d) Final Designation becomes effective on the first day of the month following the day the letter awarding Final Designation is provided to the Final Applicant.

NOTE: Authority cited: Section 7097(a), Government Code. Reference: Section 7097(a), Government Code.

HISTORY

1. New section filed 12-17-98; operative 12-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 51).
2. Change without regulatory effect renumbering title 10, section 5622.15 to title 25, section 8448.15 and amending section and NOTE filed 7-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 13. Environmental Review

§ 8449. Environmental Review Definitions.

The definitions set forth at division 13, chapter 2.5, section 21060 et seq. of the Public Resources Code and division 6, chapter 3, article 20, section 15350 et seq. of Title 14 of the California Code of Regulations shall apply to Government Code section 7075 and this article, unless otherwise indicated by the context. The definition of "applicant" contained in section 15351 of the CEQA guidelines shall not apply to Government Code section 7075 or this article. The following supplemental definitions shall also apply to Government Code section 7075 and this article.

(a) "CEQA" means the California Environmental Quality Act, division 13, section 21000 et seq. of the Public resources Code.

(b) "CEQA guidelines" mean the regulations in division 6, chapter 3, section 15000 et seq. of Title 14 of the California Code of Regulations.

(c) "EIR" means an environmental impact report prepared pursuant to CEQA and the CEQA guidelines.

(d) "Enterprise zone EIR" means an EIR prepared by a city, county, or city and county pursuant to Government Code section 7075 and this article.

NOTE: Authority cited: Section 7076, Government Code; and Section 21082, Public Resources Code. Reference: Section 7075, Government Code.

HISTORY

1. New section filed 4-2-90 as an emergency; operative 4-2-90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10-1-90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4-2-90 order transmitted to OAL 9-27-90 and filed 10-29-90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5624 to title 25, section 8449 filed 7-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8449.1. Applicability of CEQA.

Except as otherwise provided by Government Code section 7075 and this article, the provisions of CEQA and the CEQA guidelines shall apply to the environmental documents prepared in connection with the enterprise zone application process.

NOTE: Authority cited: Section 7076, Government Code; and Section 21082, Public Resources Code. Reference: Section 7075, Government Code.

HISTORY

1. New section filed 4-2-90 as an emergency; operative 4-2-90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10-1-90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4-2-90 order transmitted to OAL 9-27-90 and filed 10-29-90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5625 to title 25, section 8449.1 filed 7-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8449.2. Lead Agency.

(a) If a preliminary application is submitted by a single applicant, than the lead agency for purposes of Government Code section 7075 and this article shall be the applicant.

(b) If a preliminary application is a joint application submitted jointly by more than one city, county, or city and county, then the lead agency for purposes of Government Code section 7075 and this article shall be determined in accordance with article 4 of the CEQA guidelines.

NOTE: Authority cited: Section 7076, Government Codes; and Section 21082, Public Resources Code. Reference: Section 7075, Government Code.

HISTORY

1. New section filed 4-2-90 as an emergency; operative 4-2-90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10-1-90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4-2-90 order transmitted to OAL 9-27-90and filed 10-29-90 (Register 90, No. 50).
3. Change without regulatory effect renumbering title 10, section 5626 to title 25, section 8449.2 filed 7-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8449.3. Initial Study and Notice of Preparation.

Each preliminary applicant shall submit two copies of the initial study and notice of preparation to the Agency with the preliminary application. A preliminary application shall not be eligible for final application status if the designated number of copies of the initial study and notice of preparation are not received by the Agency by the deadline for submitting preliminary applications set forth in the Enterprise Zone Preliminary Application Handbook.

NOTE: Authority cited: Section 7076, Government Code; Section 21082, Public Resources Code. Reference: Section 7075, Government Code.

HISTORY

1. New section filed 4-2-90 as an emergency; operative 4-2-90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10-1-90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4-2-90 order transmitted to OAL 9-27-90 and filed 10-29-90 (Register 90, No. 50).
3. Change without regulatory effect amending section filed 2-7-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5627 to title 25, section 8449.3 filed 7-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8449.4. Means of Avoiding Redundancy in Preparing EIR.

(a) In preparing the enterprise zone EIR, the applicant shall not be precluded from using where applicable:

(1) an earlier EIR or EIRs prepared in connection with an earlier project or projects in accordance with and subject to section 15153 of the CEQA guidelines;

(2) tiering in accordance with and subject to section 15152 of the CEQA guidelines;

(3) incorporation by reference in accordance with and subject to section 15150 of the CEQA guidelines; or

(4) a subsequent EIR, supplement to an EIR, or an addendum to an EIR in accordance with and subject to sections 15162, 15163, and 15164 of the CEQA guidelines.

(b) If an applicant is to use an EIR or EIRs from an earlier project or projects, then all of the following shall apply:

(1) the notice of preparation shall explain that the applicant intends to use an EIR or EIRs from an earlier project or projects for the enterprise zone application;

(2) the notice of preparation shall not be required to be distributed, circulated, or sent to any persons, except the Agency;

(3) instead of preparing, circulating, and submitting two copies of a notice of completion of draft EIR, the applicant shall prepare, circulate, and submit two copies of a notice pursuant to section 15153(b)(2) of the CEQA guidelines;

(4) instead of preparing and submitting two copies of a draft enterprise zone EIR, the applicant shall submit two copies of the EIR or EIRs relied on from an earlier project or projects; and

(5) instead of preparing and submitting two copies of a final enterprise zone EIR, the applicant shall prepare and submit two copies of the responses to comments prepared in accordance with section 15153(b)(3) of the CEQA guidelines.

(c) If an applicant is to use a subsequent EIR, supplement to an EIR,or an addendum to an EIR, then the subsequent EIR, supplement, or addendum shall serve as the enterprise zone EIR.

(d) If an applicant is to use tiering or incorporation by reference, they shall be used in conjunction with a newly prepared enterprise zone EIR.

NOTE: Authority cited: Section 7076, Government Code; and Section 21082, Public Resources Code. Reference: Section 7075, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending subsection (b)(2) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
4. Change without regulatory effect renumbering title 10, section 5628 to title 25, section 8449.4 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8449.5. Draft Enterprise Zone EIR.

(a) If a preliminary applicant is not selected as a final applicant, then it shall have no duty or obligation to complete the draft or final enterprise zone EIR or to complete the EIR process.

(b) Each final applicant shall submit two copies of the draft enterprise zone EIR and notice of completion to the Agency with the final application. This regulation states that a final application shall not be eligible for conditional designation if the designated number of copies of the draft enterprise zone EIR and notice of completion are not received by the Agency by the deadline for submitting final applications set forth in the Enterprise Zone Final Application Handbook.

(c) If any boundary of the proposed enterprise zone is located within 10 miles of the boundary of an area that has been designated as an enterprise zone under the Act or a program area under the Employment and Economic Incentive Act (Government Code section 7080 et seq.), then the enterprise zone EIR shall consider and analyze whether the location of a new enterprise zone near an existing enterprise zone or program area will result in adverse environmental effects on the existing enterprise zone or program area. This discussion shall include a consideration and analysis of whether the potential economic changes related to the new enterprise zone may translate into physical environmental changes in the existing enterprise zone or program area, as discussed by the California courts of appeal in *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 445–446, and *Citizens Association for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 169–171.

NOTE: Authority cited: Section 7076, Government Code; and Section 21082, Public Resources Code. Reference: Section 7075, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order including amendment transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending subsection (b) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect renumbering title 10, section 5629 to title 25, section 8449.5 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8449.6. Final Enterprise Zone EIR.

(a) If a final applicant is not awarded conditional designation status, then it shall have no duty or obligation to complete the final enterprise zone EIR or to complete the EIR process.

(b) If a final applicant is awarded conditional designation status, then, within 90 days after the date the Agency mails the conditional designation document referred to in section 5614, each final applicant shall do all of the following:

(1) Complete the final enterprise zone EIR and the final EIR review and project approval process under CEQA and the CEQA guidelines; and

(2) Submit two copies of the following documents to the Agency:

(A) Final enterprise zone EIR (if the draft enterprise zone EIR is a separate and severable part of the final EIR, then the applicant does not need to resubmit any more copies of the draft EIR);

(B) Written certification pursuant to section 15090 of the CEQA guidelines;

(C) Written findings, if any, pursuant to sections 15091 and 15093 of the CEQA guidelines;

(D) Written project approval pursuant to section 15092 of the CEQA guidelines, including conditions of approval, if any; and

(E) Notice of determination pursuant to section 15094 of the CEQA guidelines.

(c) If a final applicant fails to submit all of the documents listed under subsection (b)(2) within the time specified in this section, then the final applicant shall be disqualified from receiving final designation.

(d) The items listed under subsections (b)(2)(B), (C), and (D) may be one or more separate documents. Two copies of each of the documents listed under subsection (B)(2) shall be mailed or delivered to the Agency, and shall be received by the Agency within 90 days after the date the Agency mails the conditional designation document referred to in section 5614.

NOTE: Authority cited: Section 7076, Government Code; and Section 21082, Public Resources Code. Reference: Section 7075, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending ssubections (b), (b)(2) and (d) filed 2–7–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 6).
4. Change without regulatory effect amending subsections (b)(2) and (d) filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
5. Change without regulatory effect renumbering title 10, section 5630 to title 25, section 8449.6 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

§ 8449.7. Review of Final Enterprise Zone EIR by the Agency.

Upon timely receipt of the documents listed in section 5630(b)(2), and prior to granting final designation, the Agency, as a responsible agency, shall review and consider the information in the final enterprise zone EIR and decide whether or how to approve the project in accordance with a responsible agency's duties and responsibilities under CEQA and the CEQA guidelines.

NOTE: Authority cited: Section 7076, Government Code; and Section 21082, Public Resources Code. Reference: Section 7075, Government Code.

HISTORY

1. New section filed 4–2–90 as an emergency; operative 4–2–90 (Register 90, No. 14). A Certificate of Compliance must be transmitted to OAL within 180 days or emergency language will be repealed on 10–1–90. For prior history, see Register 87, No. 2.
2. Certificate of Compliance as to 4–2–90 order transmitted to OAL 9–27–90 and filed 10–29–90 (Register 90, No. 50).
3. Change without regulatory effect amending section heading and text filed 6–15–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 24).
4. Change without regulatory effect renumbering title 10, section 5631 to title 25, section 8449.7 filed 7–19–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 29).

Article 14. Enterprise Zone Administration and Issuance of Vouchers

§ 8460. Applicability.

(a) With respect to the application for and issuance of vouchers, the provisions of this Article shall apply to voucher applications submitted after the effective date of these regulations and vouchers issued pursuant to such applications.

(b) Notwithstanding subdivision (a), the provisions of this Article shall not apply to voucher applications, and vouchers issued pursuant thereto, for employees hired prior to July 1, 2000, which are based on an employee's eligibility for or receipt of services under the federal Job Training Partnership Act.

NOTE: Authority cited: Section 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7076 and 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code.

HISTORY

1. New article 14 (sections 8460–8467) and section filed 11–27–2006; operative 11–27–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).

§ 8461. Definitions.

The following definitions shall apply to this Article 14 only. Unless noted otherwise or the context otherwise requires, the term "Subdivision," for purposes of this Article, refers to the same subdivision of both Revenue and Taxation Code Section 17053.74 and Revenue and Taxation Code Section 23622.7.

(a) "Applicant" means a "taxpayer" as defined in subdivision (b)(5) of Revenue and Taxation Code Sections 17053.74 and 23622.7.

(b) "Application" means an application for a voucher, which shall contain the information required by Section 8464 and the documentation required by Section 8466 in a format provided by the Department.

(c) "Conflict of interest" means that it is reasonably foreseeable that a decision that a zone manager, zone staff, or third party entity as permitted by subdivision 8463 participates in or influences will have a material financial effect, distinguishable from its effect on the public generally, on the zone manager, zone staff, or third party entity, a member of his or her immediate family, or a business entity in which the zone manager, zone staff, or third party entity is directly or indirectly involved.

(d) "Economically disadvantaged individual" or "economically disadvantaged youth" means an individual who is at least 14 years of age, and resides in a household with a total family income not exceeding the very low income category adjusted for family size and location, as set forth in the latest edition of the Income Limits published periodically by the Department pursuant to CCR Title 25, Section 6932, or in the latest edition of the Section 8 Income Limits published periodically by the U.S. Department of Housing and Urban Development. For purposes of this subdivision, "family" means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories: (i) A husband, wife, and dependent children; (ii) A parent or guardian and dependent children; (iii) A husband and wife. The employee's income shall be verified by the providers of the income or by third party entities. Verification shall include the following information in a format provided by the department:

1. Name of the employee
2. Name, address and telephone number of the income provider or the third party entity verifying the income information, and the signature of the person who filled out the form.
3. Date of verification, which shall be no earlier than 90 days prior to the filing of the voucher application
4. The form of income verified (hourly wages, salary, interest, pension, public assistance, self–employment, social security, unemployment compensation, or identified other)
5. The amount of income paid to the employee immediately preceding the date of verification (i.e., within the preceding 90 days)
6. The employee's signed certification, if applicable, of self–employment income, or of no income.

(e) "Ex–offender" means an individual who has been convicted of a felony or a misdemeanor offense punishable by incarceration, or a person charged with a felony offense or a misdemeanor offense punishable by incarceration but placed on probation by a state court without a finding of guilt. "Ex–offender" does not include an individual whose record has been expunged.

(f) "Household" means one or more persons who occupy a single dwelling unit.

(g) "Immediately preceding" means within the previous 90 days.

(h) "Long–term unemployed" means current and continuous unemployment lasting for 15 weeks or more.

(i) "Veteran" means an individual who served in the active military, naval, or air service of the United States.

NOTE: Authority cited: Section 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7072, 7076, 7076.1 and 7086, Government Code; and Sections 17053.74(c) and 23622.7(c), Revenue and Taxation Code.

HISTORY

1. New section filed 11–27–2006; operative 11–27–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).

§ 8462. Designation of Zone Manager and Staffing.

(a) Each enterprise zone governing body shall designate an enterprise zone manager and shall notify the Department, in writing, of its designee. If the zone manager is not an employee, department, or agency of the city, county, or city and county in which the enterprise zone is located, the governing body shall enter into a written agreement with the zone manager requiring, at a minimum, compliance with this Article 14.

(b) The governing body of each zone shall ensure that its zone is budgeted or staffed at a level that will ensure compliance with the voucher program requirements of this Article 14.

(c) The enterprise zone governing body shall not reduce the budget or staff allocation of its zone manager from the levels indicated in its current MOU without prior written approval from the Department.

NOTE: Authority cited: Section 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7076, 7076.1 and 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code.

HISTORY

1. New section filed 11–27–2006; operative 11–27–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).

§ 8463. Administration of a Vouchering Program.

(a) Each enterprise zone shall have and maintain a vouchering plan containing policies and procedures for the operation of a vouchering program. The plan shall meet the following criteria:

(1) The plan shall have written vouchering policies and procedures that ensure compliance with Revenue and Taxation Code Sections 17053.74 and 23622.7, Government Code Section 7070 et seq., California Code of Regulations title 10, chapter 7.8 commencing with Section 5600, and this subchapter 21.

(2) The plan shall require any Applicant requesting a voucher to provide documentary evidence to substantiate that the employee for whom a voucher is requested satisfied immediately preceding the commence-

ment of employment, the requirements of subdivision (b)(4)(A)(iv) of Revenue and Taxation Code Sections 17053.74 or 23622.7 as a qualified employee.

(3) The plan shall require the zone manager and zone staff to retain and keep confidential a copy of each voucher application received and each voucher issued and their supporting documentation. These records shall include the date the application was received, whether the application was approved or denied, and a statement signed by the zone manager of the basis for the decision on each voucher application. Unless otherwise required by law these records shall be accessible only to the zone manager and zone staff, the zone governing body, the Franchise Tax Board, the Department, and Applicants (or their designees) who may access only their own applications. All applications and voucher records shall be maintained for a minimum of five years from the date an application for a voucher is received.

(4) The plan shall require the zone to certify that the zone manager, zone staff, and any third party entities designated pursuant to subdivision (a)(7) of this section, are free of any conflicts of interest with Applicants or with the zone's obligations to objectively evaluate and process applications.

(5) The plan shall require the zone to certify that vouchering policies and procedures are administered consistently.

(6) The plan shall include an annual affirmative marketing procedure to make businesses aware of the opportunities to participate in the enterprise zone program and of the vouchering plan.

(7) A zone governing body may designate a third party entity to process voucher applications if the plan expressly provides for this designation and the third party entity enters into a written agreement with the zone, which agreement requires compliance with this Article 14 and the third party entity certifies that it is free of any conflict of interest as defined in this Article. The zone shall keep copies of all vouchers and applications processed by a third party.

(b) Zone managers shall apply to the Department for allocations of voucher numbers, and shall sequentially number vouchers issued using numbers in the allocation provided.

(c) Notwithstanding the designation by an enterprise zone governing body of an enterprise zone manager, or of a third party entity to process voucher applications, the enterprise zone governing body shall remain responsible for compliance with the requirements of this Article 14.

(d) Compliance with this Article 14 shall be evaluated as part of any Department audit of an enterprise zone program.

NOTE: Authority cited: Section 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7076, 7076.1, 7085 and 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code.

HISTORY

1. New section filed 11–27–2006; operative 11–27–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).

§ 8464. Content of an Application and a Voucher.

(a) A voucher application shall contain all of the following:

(1) Employee's name, home address, telephone number (if applicable), social security number or other identifying number approved by the Department, job title, date of commencement of employment, starting hourly wage or salary, whether the employee was hired into a new position or an existing position, and date of termination if no longer employed by the Applicant.

(2) Employer's name, address, address of business location in the zone if different, telephone number, e–mail address (if applicable) and federal tax identification number.

(3) Identification of the "qualified employee" eligibility category under which the Applicant is applying. For purposes of this Article, "eligibility category" means the specific Revenue and Taxation Code subdivision under which the employee qualifies (e.g., 17053.74(b)(4)(A)(iv)(IV)(bb), 23622.7(b)(4)(A)(iv)(VII)(cc), or 23622.7(b)(4)(A)(iv)(IX)).

(4) All of the Information and documentation required by Section 8466.

(5) A statement by the Applicant, stating that it provided the priority for employment required by subdivision (b)(4)(B) of Revenue and Taxation Code Sections 17053.74 and 23622.7.

(6) A statement by the Applicant that it is engaged in a trade or business within the zone.

(b) A voucher shall contain all of the following:

(1) The name of the enterprise zone issuing the voucher, and the address, phone number, and e–mail address of the zone manager at the zone office.

(2) The employee's name, home address, telephone number (if applicable), e–mail address if available, social security number or other identifying number approved by the Department, date of commencement of employment, and date of termination if no longer employed by the Applicant.

(3) The Applicant's name, Applicant contact name, address, address of business location in the zone if different (if applicable), telephone number, e–mail address (if applicable) of the appropriate contact person, and federal tax identification number.

(4) The "qualified employee" eligibility category under which the voucher is being issued.

(5) The name and signature of the zone manager and the date of issuance.

NOTE: Authority cited: Section 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7076 and 7086, Government Code; Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code.

HISTORY

1. New section filed 11–27–2006; operative 11–27–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).

§ 8465. Issuance of a Voucher.

(a) An enterprise zone manager shall issue a voucher if all of the following criteria are satisfied:

(1) The voucher is requested by an eligible Applicant

(2) The voucher application contains all the information required by Sections 8464 and 8466.

(3) The voucher application demonstrates that the employee meets the eligibility requirements of Subdivision (b)(4)(A)(iv).

(b) After the zone termination date, the zone manager may continue to issue vouchers for applications for qualified employees who are employed by the Applicant within the enterprise zone within the 60–month period prior to the zone expiration date, provided that the criteria in subdivision (a) are satisfied. If the zone manager of the local government administering the enterprise zone is no longer issuing vouchers, an Applicant may request a voucher from the local county or city WIA administrative entity, or the local county Work Opportunity Tax Credit office or social services agency, who may issue vouchers for applications for qualified employees who are employed by the Applicant within the enterprise zone within the 60–month period prior to the zone expiration date, provided that the criteria in subdivision (a) are satisfied.

NOTE: Authority cited: Section 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7076 and 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code.

HISTORY

1. New section filed 11–27–2006; operative 11–27–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).

§ 8466. Acceptable Documentation.

(a) To demonstrate that an employee is a qualified employee under Subdivision (b)(4)(A)(iv)(I), (b)(4)(A)(iv)(II), or (b)(4)(A)(iv)(XI), the Applicant shall provide one of the following documents pertaining to the employee's status immediately preceding commencement of employment with the Applicant:

(1) A document issued by the local CalWORKS administrator stating that the employee was eligible for CalWORKS.

(2) A document issued by the local WIA case manager or administrator stating that the employee is enrolled in, or eligible for, WIA Intensive Services or Core B.

(3) A document issued by the Work Opportunity Tax Credit or successor program's "designated local agency" (as defined in Internal Revenue Code Section 51(d)(15)) stating that the employee was a member of a targeted group, as defined in Internal Revenue Code Section 51(d), or its successor.

(b) To demonstrate that the employee is a qualified employee as an economically disadvantaged individual under Subdivision (b)(4)(A)(iv)(III), the Applicant shall provide:

(1) An official identification card or other document issued by the federal government or any state or local government that shows the employee's age or date of birth, and indicates that the employee is at least 14 years of age; and

(2) Documentation that, immediately preceding the commencement of employment with the Applicant, the employee was an economically disadvantaged individual or economically disadvantaged youth as defined in subdivision 8461(d).

(c) To demonstrate that, immediately preceding the commencement of employment with the Applicant, the employee is a qualified employee as a dislocated worker under Subdivision (b)(4)(A)(iv)(IV)(aa), the Applicant shall provide at least one item from each of subdivisions (1), (2) and (3) below:

(1) To document that an employee has been terminated, laid off, or received a notice of termination or layoff:

(A) Copy of a termination notice or other company documentation of employee's termination or layoff.

(B) Employer or union representative letter identifying the employee's termination date.

(C) Photocopy of printed media article or announcement, including the name and date of the publication, describing the layoff, along with a copy of the employee's last payroll check prior to hire by the Applicant.

(D) Separation or Termination Report, or equivalent, signed by the employee's former employer.

(E) Document showing that the employee is eligible for or has exhausted entitlement to unemployment insurance benefits as specified in subdivision (c)(2) below.

(2) To document that the employee is eligible for or has exhausted entitlement to unemployment insurance benefits:

(A) Unemployment insurance records.

(B) Statement by an Unemployment Insurance representative.

(3) To demonstrate that the employee is unlikely to return to his or her previous industry or occupation:

(A) Screen print of California Employment Development Department Labor Market Information Division screens that indicates limited opportunities for employment in the same or similar occupation such that the employee is unlikely to return to that occupation.

(B) Doctor's statement indicating employee's inability to return to previous industry/occupation due to physical limitations.

(C) Vocational rehabilitation counselor's statement indicating the employee's inability to return to previous industry/occupation due to physical limitations.

(D) Other third-party documentation that demonstrates the unavailability of similar employment in the employee's previous industry or profession.

(d) To demonstrate that, immediately preceding the commencement of employment with the Applicant, an employee is a qualified employee as a dislocated worker under Subdivision (b)(4)(A)(iv)(IV)(bb) due to plant, facility, or enterprise closure, the Applicant shall provide at least one item from each of subdivisions (1) and (2) below:

(1) To document that there has been a permanent plant, facility, or enterprise closure or substantial lay off:

(A) Bankruptcy documents, if declared under Chapter 7, Title 11 U.S.C., Notice of Foreclosure or a similar document provided by a financial institution when such document clearly shows that a closure or mass layoff will occur as a result of its issuance.

(B) Copy of a printed media article/announcement, including the name and date of the publication, describing the closure/mass layoff.

(C) Statement from the employer or the union representative.

(D) Statement from the employer's bank official, attorney, supplier, or accountant.

(E) WARN (Worker Adjustment and Retraining Notification Act) notice.

(2) To document that an employee has been terminated, laid off, or received a notice of termination or layoff, the Applicant shall provide one of the following documents verifying that the employee was employed at the plant, facility, or enterprise identified in (d)(1) above:

(A) Copy of a notice of termination or layoff or other company documentation of employee's termination.

(B) Employer or union representative letter identifying the employee's termination date.

(C) Separation or Termination Report, or equivalent, signed by the employee's former employer.

(D) Evidence that the employee is or was employed by the plant, facility, or enterprise identified in subdivision (d)(1).

(E) WARN notice.

(e) To demonstrate that an employee is a qualified employee as a dislocated worker under Subdivision (b)(4)(A)(iv)(IV)(cc) as long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, the Applicant shall provide at least one item from each of subdivisions (1) and (2) below:

(1) To document that the employee is long-term unemployed, one of the following dated at least 15 weeks prior to commencement of employment with the Applicant:

(A) Proof of receipt of unemployment benefits for at least 15 weeks prior to commencement of employment or proof that unemployment benefits were exhausted.

(B) Unemployment insurance verification (benefits records).

(C) Unemployment insurance award letter with claim history.

(D) Workers Investment Act Displaced Worker Unit Verification.

(E) Statement by an Unemployment Insurance representative.

(F) Documentation that qualifies the employee as a dislocated worker under subdivision (c) or as a dislocated worker due to plant, facility, or enterprise closure under subdivision (d) showing long-term unemployment for at least 15 weeks prior to commencement of employment.

(2) To document that the employee has limited opportunities for employment or reemployment in the same or a similar occupation:

(A) Screen print of California Employment Development Department Labor Market Information Division screens that indicates limited opportunities for employment or reemployment in the same or similar occupation.

(B) Doctor's statement indicating employee's inability to return to previous industry/occupation due to physical limitations.

(C) Vocational rehabilitation counselor's statement indicating the employee's inability to return to previous industry/occupation due to physical limitations.

(D) Other third-party documentation that demonstrates the unavailability of similar employment in the employee's previous industry or profession.

(f) To demonstrate that, immediately preceding the commencement of employment with the Applicant, an employee is a qualified employee as a dislocated former self-employed worker under Subdivision (b)(4)(A)(iv)(IV)(dd), the Applicant shall provide a combination of the following or other documents sufficient to demonstrate that the employee previously was self-employed and was unemployed prior to the commencement of employment due to economic conditions in the community or due to natural disaster:

(1) Bankruptcy documents listing both the name of the business and the employee's name.

(2) A business license or permit listing the employee's name.

(3) Copy of articles of incorporation or documentation of dissolution for the business listing the employee as an owner.

(4) Prior year's income tax return.

(g) To demonstrate that, immediately preceding the commencement of employment with the Applicant, an employee is a qualified employee under Subdivision (b)(4)(A)(iv)(IV)(ee) as a dislocated civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990, the Applicant shall provide a copy of the employee's termination notice and either a copy of a media article or announcement describing the layoff or closure, or an employer or union representative letter describing the layoff or closure.

(h) To demonstrate that, immediately preceding the commencement of employment with the Applicant, an employee is a qualified employee under Subdivision (b)(4)(A)(iv)(IV)(ff) as a dislocated worker who was an active member of the armed forces or National Guard as of September 30, 1990, and was involuntarily separated or separated pursuant to a special benefits program, the Applicant shall provide one of the following documents demonstrating that the employee meets the above qualifications:

(1) Report of separation or discharge from the armed services or the National Guard.

(2) Veterans Administration documentation.

(3) Verification by State Veterans Agency.

(i) To demonstrate that, immediately preceding the commencement of employment with the Applicant, an employee is a qualified employee under Subdivision (b)(4)(A)(iv)(IV)(gg) as a dislocated worker due to seasonal unemployment, the Applicant shall provide one of the following documents demonstrating that the employee was a seasonal or migrant worker:

(1) Documentation of employee's migrant employment in a seasonal occupation.

(2) Employer or union representative letter describing seasonal layoff in employee's seasonal occupation.

(3) Copies of termination notices identifying employer and employee.

(4) Copies of employee's pay stubs identifying seasonal employer.

(j) To demonstrate that, immediately preceding the commencement of employment with the Applicant, an employee is a qualified employee under Subdivision (b)(4)(A)(iv)(IV)(hh) as a dislocated worker due to Clean Air Act compliance, the Applicant shall provide a copy of the employee's termination notice and either a photocopy of a media article or announcement describing the reason for the layoff, or an employer or union representative letter stating that compliance with the Clean Air Act was the reason for the layoff.

(k) To demonstrate that, immediately preceding the commencement of employment with the Applicant, an employee is qualified as a disabled individual under Subdivision (b)(4)(A)(iv)(V), the Applicant shall provide the documentation required either by (1) or (2):

(1) The Applicant shall provide one of the following documents demonstrating that the employee was disabled and is eligible for, enrolled in, or has completed a state rehabilitation plan:

(A) Physician's statement.

(B) Rehabilitation plan.

(C) Vocational rehabilitation letter.

(D) Verification by state or federal rehabilitation counselor.

(E) Letter from a state drug or alcohol rehabilitation agency.

(F) Medical records.

(G) Social Security Administration disability records.

(H) Social Service records/referral.

(2) The Applicant shall provide one of the following documents demonstrating that the employee is a service-connected disabled veteran:

(A) DD-214 Defense Department Report of Separation.

(B) Veterans Administration documentation.

(C) Verification by State Veterans Agency.

(l) To demonstrate that an employee is a qualified employee under Subdivision (b)(4)(A)(iv)(V) as a Vietnam era veteran or a veteran recently separated from military service, the Applicant shall provide one of the following documents demonstrating that the employee meets the above qualifications:

(1) Report of separation or discharge from the armed services or the National Guard.

(2) Veterans Administration documentation.

(3) Verification by State Veterans Agency.

For purposes of this subdivision, "recently separated" means within 48 months preceding commencement of employment with the qualified taxpayer; and the term "Vietnam era veteran" means a veteran any part of whose active military service occurred between August 5, 1964, and May 7, 1975.

(m) To demonstrate that an employee is a qualified employee as an ex-offender under Subdivision (b)(4)(A)(iv)(VI), the Applicant shall provide one of the following documents verifying that immediately preceding commencement of employment the employee was an ex-offender as defined in subdivision 8461:

(1) Court documents.

(2) Letter of parole.

(3) Letter from probation officer.

(4) Police records.

(5) A copy of a background check report or independent court records report showing the employee as an ex-offender as defined in subdivision 8461(e), signed by a background checking business or independent court records business, licensed and/or certified if required by California or federal law.

(6) Other government document verifying ex-offender status, such as a letter from the Board of Prison Terms, or a letter from the Governor's Office.

(n) To demonstrate that an employee is a qualified employee under Subdivision (b)(4)(A)(iv)(VII) as a recipient of, or eligible for, public assistance, the Applicant shall provide one of the following documents verifying that the employee was receiving, or was eligible to receive, the assistance immediately preceding the commencement of employment:

(1) Public assistance award letter.

(2) Benefit printout.

(3) Current food stamp identification card or award letter.

(4) Social Security Insurance award letter or check stub.

(5) Refugee Cash Assistance.

(6) Verification by Department of Social Services.

(7) Written statement from county welfare office or telephone verification by zone manager.

(8) Public assistance records/printout.

(o) To demonstrate that an employee is a qualified employee under Subdivision (b)(4)(A)(iv)(VIII) as a Native American, Native Samoan, Native Hawaiian, or member of another group of Native American descent, the Applicant shall provide one of the following documents:

(1) Native American tribal record document.

(2) Certified Degree of Indian Blood (CDIB) card, issued by the Bureau of Indian Affairs.

(3) Documentation that the employee is a Native Samoan, Native Hawaiian, or a member of another group of Native American descent.

(p) To demonstrate that an employee is a qualified employee under Subdivision (b)(4)(A)(iv)(IX) as a resident of a targeted employment area ("TEA"), as defined in Section 7072 of the Government Code, the Applicant shall provide a copy of the officially listed TEA address range and one of the following documents, verifying that the employee resided in a TEA immediately preceding the commencement of employment:

(1) Form I-9, U.S. Department of Justice, Immigration and Naturalization Service.

(2) Driver's license or State Identification Card.

(3) Landlord statement.

(4) Lease or rental agreement.

(5) Utility bill.

NOTE: Authority cited: Section 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7076 and 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code.

HISTORY

1. New section filed 11-27-2006; operative 11-27-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).

§ 8467. Voucher Appeals.

Appeal of a denial of a voucher application shall be made in accordance with the provisions of this Section.

(a) All appeals shall be in writing and shall include the following information:

(1) Name and address of the business, and, if applicable, the business's representative for the purposes of the appeal;

(2) Signature of the business or the business's authorized representative;

(3) Narrative discussion of why the denial should be reversed and any additional information or documentation not previously provided in support of the application; and,

(4) A copy of all denial notices.

(b) A denial issued by a zone manager may be appealed to the zone manager within 60 calendar days of the date of the denial. The zone manager shall respond to the appeal, with a final decision in writing, within 60 calendar days of receipt of the appeal. The zone manager's final decision shall set forth the basis for the zone manager's decision to accept or reject the appeal and shall be sent to the Applicant and the Department.

(c) A final decision by a zone manager denying an application may be appealed to the Department within 30 calendar days of the date of the final decision by the zone manager. The Department shall have 90 calendar days from receipt of an appeal from an Applicant to issue a written response granting or denying the appeal.

(d) The decision of the Department shall be final, shall be rendered in writing, and shall be sent to the Applicant, the Applicant's authorized representative if applicable, and the zone manager. If the Department grants the appeal, the zone manager shall issue a voucher to the appealing party.

NOTE: Authority cited: Section 7086, Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code. Reference: Sections 7076 and 7086(d), Government Code; and Sections 17053.74(c)(1) and 23622.7(c)(1), Revenue and Taxation Code.

HISTORY

1. New section filed 11-27-2006; operative 11-27-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).

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CALIFORNIA CODE OF REGULATIONS

Title 25. Housing and Community Development

Division 2. California Housing Finance Agency

Vol. 33

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Division 2. California Housing Finance Agency

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Division 2. California Housing Finance Agency

(Originally Printed 12-6-75)

Chapter 1. General

Article 1. Conflict of Interest Code

§ 10001. General Provisions.

The Political Reform Act, Government Code sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the California Housing Finance Agency (the Agency).

Designated employees shall file statements of economic interests with the Agency, which will make the statements available for public inspection and reproduction. (Govt. Code Section 81008). Upon receipt of the statements of Board Members and the Executive Director, the Agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the Agency.

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Sections 87300, et seq., Government Code.

HISTORY

1. Repealer of chapter 1 (article 1, sections 10001–10006) and new chapter 1 (article 1, sections 10001–10011) filed 8–12–77; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 4–20–77 (Register 77, No. 37). For prior history, see Registers 75, No. 49; and 76, No. 20.
2. Repealer of article 1 (sections 10001–10011 and Exhibits A and B) and new article 1 (section 10001 and Appendix) filed 2–26–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 9).
3. Amendment of Appendix filed 6–14–84; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 5–7–84 (Register 84, No. 24).
4. Amendment of Appendix refiled 10–4–84; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 5–7–84 (Register 84, No. 40).
5. Amendment of section 10001 and Appendix filed 1–30–91; operative 3–1–91. Approved by Fair Political Practices Commission 12–6–90 (Register 91, No. 14).
6. Amendment of section and Appendix filed 4–18–96; operative 5–18–96. Approved by Fair Political Practices Commission 2–8–96 (Register 96, No. 16).
7. Amendment of section and Appendix filed 7–28–97; operative 8–27–97. Approved by Fair Political Practices Commission 6–4–97 (Register 97, No. 31).
8. Amendment of section and Appendix filed 2–7–2006; operative 3–9–2006. Approved by Fair Political Practices Commission 12–16–2005 (Register 2006, No. 6).

Conflict of Interest Code of the California Housing Finance Agency

Appendix

Designated Employees	*Assigned Disclosure Category*
Persons holding the following positions and/or the following classifications are "designated employees":	
Board of Directors	
Board Member (All members of the Board other than the State Treasurer)	1,2,3
Executive	
Executive Director	1,2,3
Chief Deputy Director	1,2,3
Director of Legislation	1,2,3
Administration	
Director of Administration	1,2,3
Chief of Administrative Services	1,2,3
Staff Services Manager I (Business Services)	3
Business Services Officer	3
Information Technology	
Chief Information Officer	2,3
Staff Information Systems Analyst (Specialist) (Systems Administration)	3
Senior Information Systems Analyst (Supervisor)	3
Marketing	
Director of Marketing (Staff Services Manager III)	1,2,3
Legal	
General Counsel	1,2,3
Staff Counsel IV	1,2,3
Staff Counsel III	1,2,3
Staff Counsel	1,2,3
Financing	
Director of Financing	1,2,3
Risk Manager	1,2,3
Housing Finance Chief (Financing)	1,2,3
Financing Officer	1,2,3
Financing Specialist	1,2,3
Fiscal Services	
Comptroller	1,2,3
Accounting Administrator III	1,2,3
Accounting Administrator II	3
Housing Finance Officer (Single Family)	1,2,3
Housing Finance Specialist (Single Family)	1,2,3
Homeownership	
Director of Homeownership	1,2,3
Housing Finance Chief (Single Family)	1,2,3
Housing Finance Officer (Single Family)	1,2,3
Housing Finance Specialist (Single Family)	1,2,3
Multifamily	
Director of Multifamily Programs	1,2,3
Deputy Program Director (Rental)	1,2,3
Housing Finance Chief (Rental)	1,2,3
Housing Finance Chief (Construction Services)	1,2,3
Supervising Design Officer	1,2,3
Senior Design Officer	1,2,3
Senior Estimator	1,2,3
Senior Housing Construction Inspector	1,2,3
Housing Construction Inspector	1,2,3
Housing Finance Officer (Rental)	1,2,3
Housing Finance Officer (Construction Services)	1,2,3
Housing Finance Specialist (Rental) (Preservation Assistance)	1,2,3
Housing Finance Specialist (Construction Services)	1,2,3
Chief, Special Lending Programs (CEA II)	1,2,3
Asset Management	
Deputy Director of Asset Management	1,2,3
Housing Finance Chief (Management Services)	1,2,3
Housing Finance Officer (Management Services)	1,2,3
Housing Finance Specialist (Management Services)	1,2,3
Housing Maintenance Inspector	1,2,3
Mortgage Insurance Services	
Director of Insurance	1,2,3
Housing Finance Chief (Single Family)	1,2,3
Housing Finance Officer (Single Family)	1,2,3
Housing Finance Specialist (Single Family)	1,2,3
Consultants	
Consultant	1,2,3

With respect to Consultants, the General Counsel of the Agency may determine in writing that a particular consultant, although a "designated employee," is hired to perform a range of duties that is limited in scope and thus is not required to comply with the disclosure requirements de-

scribed in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. A copy of the written determination is a public record and shall be retained and made available for public inspection in the same manner and location as this Conflict of Interest Code. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code.

Disclosure Categories

Category 1

Designated employees in Category 1 must report:

All investments and interests in real property located within the State of California.

Category 2

Designated employees in Category 2 must report:

All investments and business positions in, and sources of income, including gifts, loans, and travel payments, from, any person or entity which is (i) defined to be a "housing sponsor," "limited-dividend housing sponsor," or "qualified mortgage lender" by part I, chapter 2, of the Zenovich-Moscone-Chacon Housing and Home Finance Act (chapter 2 commences at section 50050 of the California Health and Safety Code) or which is (ii) a financial services company, information technology company, law firm, mortgage bank, investment bank, real estate services company, brokerage company, insurance company, title company, escrow company, building or construction contractor or subcontractor, that contracts with or otherwise does business with the Agency, or which is soliciting, a contract or other business from the Agency.

Category 3

Designated employees in Category 3 must report:

All sources of income, including gifts, loans, and travel payments, from and investments and business positions in any business entity that, within the last two years, has contracted with the Agency to provide services, supplies, materials, machinery or equipment to the Agency, or that has otherwise done business with the Agency.

§ 10002. Delegation; Absence.

In the absence of the Executive Director, the Chief Deputy Director, or other agency official designated in writing by the Executive Director, may act on behalf of the Agency with respect to any and all matters on which the Executive Director has authority to act.

For purposes of this section, "absence of the Executive Director" means the Executive Director is not present at the location where an action or signature on behalf of the agency is required for any reason, including, but not limited to, the temporary vacancy of the Executive Director position.

NOTE: Authority cited: Section 51050, Health and Safety Code. Reference: Section 50908, Health and Safety Code.

HISTORY

1. New section filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

Chapter 2. Rental Housing Development Programs

Article 1. General

§ 11001. Authority and Purpose.

This chapter is adopted pursuant to Section 51050(e) of the Health and Safety Code in order to implement the provisions of Part 3 (commencing with Section 50900) of Division 31 of the Health and Safety Code other than the provisions of Chapter 6.7 of said Part 3.

NOTE: Authority cited: Section 51050, Health and Safety Code. Reference: Section 50900, Health and Safety Code.

HISTORY

1. New Chapter 2 (Sections 11001-11406, not consecutive) filed 11-23-76; effective thirtieth day thereafter (Register 76, No. 48).
2. Amendment filed 10-23-85; effective thirtieth day thereafter (Register 85, No. 43).

§ 11002. Definitions.

(a) Any term defined in Chapter 2 (commencing with Section 50050) of Division 31, Part 1 of the Health and Safety Code shall have the same meaning when used in this chapter as is given to it by said Chapter of the Health and Safety Code unless further or otherwise defined hereafter in this section.

(b) "Act" means the Zenovich-Moscone-Chacon Housing and Home Finance Act as it now exists or may hereafter be amended.

(c) "Affordable rent" shall mean:

(1) In Section 8 assisted developments the "total tenant payment" as defined by HUD 24 C.F.R. Section 813.107.

(2) For purposes of dwelling units for occupancy by lower-income households in multifamily rental housing, the rehabilitation of which is financed by the Agency and which is not a Section 8 assisted housing development, (i) an amount not exceeding thirty percent (30%) of fifty-eight percent (58%) of the applicable county median income as set forth in Title 25, Section 6932; or (ii) when the Agency determines that the cost of rehabilitation or acquisition of the multifamily rental housing makes such rents economically infeasible, thirty percent (30%) of seventy percent (70%) of the applicable county median income as set forth in Title 25, Section 6932.

(3) For purposes of section (c)(2), the applicable county median income for zero bedroom (studio) units shall be the county median income for one person, for one bedroom units it shall be the county median income for a two-person family, for two-bedroom units it shall be the county median income for a four-person family, and for three-bedroom units it shall be the county median income for a six-person family.

(4) For purposes of section (c)(2), if tenants are required to pay for their own utilities, an allowance for utilities other than telephone shall be the same as that used by the local housing authority in which the project is located for the Section 8 existing certificate holders for determining the utility allowance and shall be deducted from affordable rent to determine the actual rent to be charged to the tenant.

(d) "Agency" means the California Housing Finance Agency.

(e) "Board" means the Board of Directors of the California Housing Finance Agency.

(f) "C.F.R" means Code of Federal Regulations.

(g) "Code" means the Health and Safety Code.

(h) "Housing development" means "housing development" as defined by Section 50073.5 of the Code and may include such nonhousing facilities as are approved pursuant to Section 11103 of this chapter.

(i) "Housing sponsor" means any "housing sponsor" within the definition of Section 50074.5 of the Code.

(j) "HUD" means the United States Department of Housing and Urban Development or its designee.

(k) "Market rent" means that monthly rental determined by the Agency to be comparable to the rent charged for units of similar size, construction type, amenity level, and other characteristics within the market area of the housing development.

(l) "Persons and families of low or moderate income" includes any of the following:

(1) A "very low income family" is a family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

(2) A "low income family" is a family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that income limits higher or lower than 80 percent may be established on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low incomes, or other factors.

(3) A "moderate income family" is a family whose income does not exceed 120 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

(4) For purposes of this section, "family" includes an elderly, handicapped, disabled, or displaced person and the remaining member of a tenant family as defined in Section 201(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 1437a).

(m) "Rental housing development" shall not include owner-occupied housing development nor mutual self-help housing.

(n) "Section 8 assisted housing development" means a housing development, or that part of a housing development, containing units subject to an "Annual Contributions Contract" as defined by 24 C.F.R. Section 883.302.

(o) "Person" means an individual, family, corporation, proprietorship, partnership, association or any other entity.

(p) Section references are to sections of this chapter unless indicated otherwise.

NOTE: Authority cited: Sections 50462(f) and 51050, Health and Safety Code. Reference: Sections 51050, 50053, 50073.5, 50074.5, 50952(a) and 51335, Health and Safety Code; and 24 CFR Sections 813 and 883.

HISTORY

1. Amendment of subsection (c) filed as an emergency 8-12-83; effective upon filing (Register 83, No. 33). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12-10-83.
2. Amendment of subsection (c) filed 6-21-84; effective thirtieth day thereafter (Register 84, No. 25).
3. Amendment of subsection (c) filed 10-23-85; effective thirtieth day thereafter (Register, No. 43).
4. Amendment of subsections (a), (h), (i) and (n) and NOTE filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 11003. Delegation.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

Article 2. Construction and Mortgage Loans

§ 11101. Qualification of Housing Sponsors for Rental Housing Developments to Be Constructed.

Before the agency may make or approve a commitment to any person for a construction or mortgage loan, the agency shall determine, taking into account the nature of the housing development and the person (whether a natural person or a public or private entity), that said person

(a) Is credit worthy,

(b) Is financially responsible,

(c) Is (if not a natural person) duly organized and qualified to do business in this state,

(d) Is capable of proceeding promptly to construct and complete the housing development,

(e) Has the ability to operate the housing development,

(f) Has a commitment to construct and operate the housing development in accordance with all applicable federal and state "Equal Opportunity," "Employment of Project Area Residents and Contractors" and "Affirmative Fair Housing Marketing" regulations.

NOTE: Authority cited: Sections 50955, 51050(e) and 51101, Health and Safety Code. Reference: Sections 50051, 50094 and 50100, Health and Safety Code.

HISTORY

1. Repealer of first paragraph and new NOTE filed 12-19-2005; operative 12-19-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

§ 11102. Criteria for Rental Housing Developments to Be Constructed.

In order to obtain financing in the form of a construction or mortgage loan from the agency or from a qualified mortgage lender for a rental housing development to be constructed, a housing sponsor or other person applying to be certified as a housing sponsor pursuant to Section 11101 of this article shall submit to the agency such information as is required by the agency to enable the agency to make the determinations required by this section.

(a) Mandatory Requirements. No application for a construction or mortgage loan shall be approved unless the agency is assured:

(1) That the proposed housing development will be economically feasible, and

(2) That the proposed housing sponsors and prospective tenants will be eligible for financial assistance under the Act, and

(3) That the proposed housing development is consistent with the current housing objectives of the agency, and

(4) That the proposed housing development has or will have sufficient access to supporting social services, transportation, schools, employment and retail merchants, and

(5) That the location of the proposed housing development is consistent with the agency's policies of dispersing housing developments throughout communities and avoiding undue concentrations of persons and families of low income except where overriding considerations of economic need necessitate modifying these requirements in order to accomplish the housing objectives of the agency in concentrated rehabilitation areas and participating mortgage funds assistance areas, and

(6) That the proposed housing development will provide safe, sanitary and decent housing meeting the requirements of all applicable building standards, and

(7) That the housing sponsor is prepared to meet any relocation obligations imposed by the Act.

(b) Priorities in Selection of Developments for Financing. Various sections of the Act designate housing priorities to be reflected in the agency's activities. Necessarily, the emphasis on particular priorities, as reflected in the agency's current housing objectives, will change over time due to circumstances and conditions. Within these parameters, the agency will give priority consideration in approving loan commitments to housing developments which:

(1) Assist the agency in making full use of available federal subsidies;

(2) Are consistent with the agency's objective of providing that not less than 30% of the units for which commitments are made are for very low income households;

(3) Assist the agency in balancing its financing activities among rural, metropolitan and nonmetropolitan areas of the state in general proportion to the relative needs for housing assistance in those areas identified in the California Statewide Housing Plan adopted by the Legislature. In the absence of such an adopted plan the agency will consider data relating to such needs developed by the Department of Housing and Community Development.

(4) Reflect the housing needs of identifiable groups of persons such as but not limited to the elderly, handicapped, large households, and persons displaced from housing by governmental actions or natural disasters, as those needs are identified in an adopted California Statewide Housing Plan adopted by the Legislature. In the absence of such an adopted plan the agency will consider data relating to such needs developed by the Department of Housing and Community Development.

(5) Whether the housing development is consistent with local governmental housing needs and priorities as reflected in areawide and local housing elements, housing assistance plans, housing allocation plans, and comments from A-95 clearinghouse(s).

(c) Additional Objectives. In addition to the foregoing mandatory requirements and priorities in selecting housing developments for approval, the agency shall review the following factors in determining whether a loan commitment shall be approved.

(1) Whether the housing development is superior in terms of amenities, scale of the development, architectural treatment and aesthetic impact on the surrounding community;

(2) Whether the housing development will contribute to employment opportunities; is located in an area with low vacancy rates; whether the development will promote the recovery and growth of economically depressed businesses located in areas of minority concentration and in mortgage deficient areas;

(3) Whether the housing development will increase the range of housing choices for minorities of low income and low-income persons rather than increasing the impaction of low-income areas.

§ 11102.5. Construction Standards, Access for Physically Handicapped.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 11103. Nonhousing Facilities.

(a) Housing developments may include such streets, sewers, utilities, site preparation, open space, and landscaping as the agency determines are necessary or appropriate in connection with the housing development.

(b) Housing developments may include other nonhousing facilities such as administrative, community, health, recreational, educational, commercial, dining, and childcare facilities. The agency shall exercise reasonable judgment in encouraging and approving applications for financing assistance for housing developments containing such nonhousing facilities, taking into account the following factors:

(1) Whether said facilities will directly benefit the occupants of the development,

(2) Whether said facilities will be compatible with a suitable living environment for the occupants,

(3) The nature of the intended occupants of the development, whether families with children, the elderly, the handicapped, or others,

(4) The views of local organizations and groups as to the needs of occupants and whether such facilities are or will be otherwise provided within the community for occupants of the housing development.

(5) The prior availability of such facilities in the community,

(6) The economic feasibility of including such facilities,

(7) The availability of and feasibility of using other sources of financing for such facilities,

(8) The availability of federal subsidies for housing developments containing such facilities.

(c) In reviewing the factors enumerated in (b) above, for the inclusion of nonhousing facilities within any request for a construction or mortgage loan commitment the agency shall be guided by the policies of:

(1) Encouraging common areas, play areas and childcare facilities in family housing developments, and congregate dining facilities in housing projects primarily for elderly persons;

(2) Requiring all such commercial facilities financed with a below-market-interest rate, to the extent of any benefit from such rate, to contribute to the support of the residential units in the housing development, and

(3) Avoiding duplication of services or functions existing within the community in areas convenient to the housing development which are provided at reasonable cost to the occupants of housing development.

§ 11104. Terms and Conditions of Loans.

(a) Each construction and/or mortgage loan to a housing sponsor for a rental housing development shall be made on such terms and conditions as the agency shall determine are necessary or appropriate to provide sufficient security for obligations to and of the agency to ensure that the construction and mortgage loan programs of the agency are economically viable. Said terms and conditions shall include, but are not limited to, the following:

(1) That the deed of trust securing said loan shall create a first, second or more junior lien on the housing development with respect to which said loan is made and shall be executed and recorded in accordance with existing applicable laws,

(2) That the deed of trust shall provide, among other things, that the agency, upon default by the housing sponsor under the terms of the deed of trust and in the agency's discretion, either may declare all sums secured thereby immediately due and payable by executing and recording or causing to be executed and recorded a notice of default and election of sale or by commencing an appropriate foreclosure action. In addition, upon the occurrence of a default, the agency may, in person, by agent or by receiver appointed by a court enter upon and take possession of the housing development, collect all rents, and perform any acts necessary to maintain or operate it, all in such manner as to not cause the cessation of any federal subsidies.

(3) That the amount of said loan shall be within all limitations prescribed by law,

(4) That the scheduled loan repayments, including fees and charges together with interest accumulated on disbursal funds shall be estimated to be sufficient in amount and time to enable the agency to meet its administrative expenses and debt service on any notes or bonds issued or to be issued in connection with said loan,

(5) That the housing sponsor shall have or acquire title to the site of the housing development free and clear of all liens or encumbrances which would materially affect the value of said site as a site for the housing development or a leasehold interest in the site of duration and terms found acceptable by the General Counsel,

(6) That the housing development shall have been approved by the agency pursuant to Section 11102 of this article,

(7) That any contract for the construction of the housing development shall be approved by the agency pursuant to Article 4 of this chapter, and

(8) That disbursements of loan proceeds from the agency to the housing sponsor for progress payments for construction work shall be pursuant to procedures as provided in Section 11106.

(b) The agency may make mortgage loans, for the purpose of creating or preserving rental housing developments in accordance with the Act. "Refinancing" as used herein shall mean providing new financing for a rental housing development for which the original construction was completed more than one (1) year prior thereto. "Completed" as used herein shall mean that certificates of occupancy shall have been issued for at least ninety percent (90%) of the units.

(c) The development cost limitation of Section 50958 of the Code shall mean that the agency's mortgage loan amount, when combined with the amounts owed on any senior encumbrances, shall not exceed 95% (in the case of a housing sponsor other than a local public entity or nonprofit) or 100% (in the case of a local public entity or nonprofit), as applicable, of the development costs.

(d) In the case of a refinancing mortgage loan, the term "development costs" as defined in Section 50065 of the Code shall mean the fair market value of the housing development as substantiated by an appraisal acceptable to the agency.

(e) For the purposes of Section 51104(b) of the Code, ". . . guaranteed . . . by an agency of the state . . ." and, for the purposes of Section 51104(d) of the Code, ". . . guaranteed in whole or in part by an agency of the state, including the California Housing Finance Agency, a political subdivision of the state, . . ." shall include but not be limited to arrangements whereby the agency secures the bonds by pledging its interests in mortgages pledged by the Federal National Mortgage Association upon conditions satisfactory to the agency.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Sections 50065, 50086, 50958, 51104(b) and (d), Health and Safety Code.

HISTORY

1. Redesignation of subsection (a), subsection renumbering, amendment of subsection (a)(1), and new subsections (b)–(e) and NOTE filed 3–9–95; operative 4–10–95 (Register 95, No. 10).

§ 11105. Interest Rate Limitations.

The yield to the agency with respect to any construction or mortgage loan on a rental housing development, which loan is made by the agency or by a qualified mortgage lender (taking into consideration any fees and charges imposed by the agency) shall be such that any bonds or notes issued by the agency shall be not "arbitrage bonds" within the meaning of Section 103(d)(2) of Title 26 of the United States Code.

NOTE: Authority cited: Section 51050, Health and Safety Code. Reference: Section 103, Title 26, United States Code.

HISTORY

1. Amendment of section and new NOTE filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11106. Construction Progress Payment Disbursements.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11107. Earnings Distribution.

Earnings distribution to a housing sponsor (other than a nonprofit housing sponsor or local entity) shall be limited to an annual amount no greater than 6% of the housing sponsor's equity invested in the housing development in the case of housing developments intended primarily for elderly persons, or an amount not to exceed 10% of the housing sponsor's equity invested in the housing development in the case of housing developments intended primarily for nonelderly persons, except as such distributions may be increased pursuant to the provisions of paragraph 2 of Section 51202 of the Health and Safety Code.

NOTE: Authority cited: Section 51050, Health and Safety Code. Reference: Section 51202, Health and Safety Code.

HISTORY

1. New section filed 10–29–80; effective thirtieth day thereafter (Register 80, No. 44).

Article 3. Equal Opportunity

§ 11201. Equal Employment and Business Opportunity; Equal Housing Opportunity.

Every contract let for the management, construction, or rehabilitation, or let in the performance of the management, construction or rehabilitation of any CHFA financed housing development shall comply with all required state and federal equal opportunity laws, regulations and orders.

Any housing development assisted by any program of the agency shall be open for occupancy by all, regardless of race, sex, sexual orientation, marital status, familial status, color, religion, national origin, ancestry, or handicap, in accordance with all appliable state and federal laws.

HISTORY

1. Amendment of article 3 heading, repealer of former section 11201 and renumbering and amendment of former section 11204 to new section 11201 filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11202. Affirmative Marketing Programs.

It shall be the policy of the agency to achieve greater access to housing opportunities created by programs assisted by the agency for all persons regardless of race, sex, sexual orientation, marital status, familial status, color, religion, national origin or handicap. An Affirmative Fair Housing Marketing Plan (the "Plan") furthering this policy shall be submitted to the agency by any housing sponsor who seeks financial assistance from the agency. The Plan shall satisfy all requirements of the Affirmative Fair Housing Marketing Regulations in 24 C.F.R. Section 200.600 et seq., and shall remain in force and effect until the deed of trust securing any agency financing is terminated.

In addition, the Plan shall satisfy the following requirements:

(a) It shall contain an undertaking by the housing sponsor to rent the units in the development in a manner consistent with giving notice of the availability of such units to all persons in the housing market of the community irrespective of race, sex, marital status, color, religion, national origin or handicap.

(b) All advertising should state "Financed by the California Housing Finance Agency" and "Equal Housing Opportunity," with the appropriate HUD logo.

(c) It shall identify by language and by number any significant number of persons in a community within the housing market area who have a limited fluency in the English language.

(d) Where there is a significant number of persons in a community within the housing market area who have a limited fluency in the English language, the Plan shall:

(1) Identify the media most likely to reach such persons,

(2) Provide that in advertisements for the housing development the publication will be made in the native language of such persons, in addition to advertisements in the English language, and

(3) Describe the provisions which the housing sponsor will make for handling inquiries by and negotiations with such persons for the rental of units in the development.

(e) The housing sponsor shall keep a record of all advertisements made pursuant to the Plan. The records shall include a copy or transcript of the advertisement copy, the identity of the media in which it was disseminated, and the date(s) of each appearance. The housing sponsor shall also keep a record of the dates and places of any meetings or communications between the housing sponsor and any individual or group referred to the housing sponsor by the agency or organizations, representing any of the groups within the community acting on behalf of any classification of persons described in (a) above. Such records shall be retained for a period of two years.

The agency may from time to time review the Plan and the housing sponsors' activities pursuant to the Plan and may require amendments to the Plan if it does not fully comply with the requirements of this section.

Nothing in this section shall be construed to require the housing sponsor to make units available to the handicapped in excess of the number of such units required under the regulatory agreement (or other contractual documents) between the housing sponsor and the agency. This section shall not apply to an "owner–occupied housing development" or to "mutual self–help housing" except to the extent required by any applicable Federal law(s).

HISTORY

1. Repealer of former section 11202 and renumbering and amendment of former section 11205 to new section 11202 filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11203. Employment of Project Area Residents and Contractors—Section 3 Covered Projects.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11204. Equal Housing Opportunity.

HISTORY

1. Renumbering of former section 11204 to new section 11201 filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11205. Affirmative Marketing Programs.

HISTORY

1. Renumbering of former section 11205 to new section 11202 filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11206. Adaptation of Language.

NOTE: Authority cited: Section 51050, Health and Safety Code. Reference: Section 50955, Health and Safety Code.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

Article 4. Tenancy Standards and Procedures

§ 11401. Selection of Tenants.

Each housing sponsor receiving a construction or mortgage loan commitment shall develop a Resident Selection Plan. The plan shall be submitted to and approved by the agency prior to the loan closing.

The plan shall:

(a) Establish income limits for the rental of each unit within the housing development.

(b) Provide for a tenant counseling program for tenants unless this requirement is waived in writing by the agency.

(c) Detail the manner in which the housing sponsor will give preference in the renting of units to tenants:

(1) Displaced from housing by this or another housing development;

(2) Displaced from housing by governmental actions or natural disasters;

(3) Who are elderly;

(4) Who are handicapped;

(5) Who are persons or families of low, very low and moderate income; and

(6) Who are tenants constituting large families.

(d) Within the classifications set forth in (c) above, provide, unless this requirement is waived in writing by the agency, that not less than twenty percent (20%) of the units in the housing development shall be rented to persons of very low income.

(e) Shall provide that the housing sponsor will notify each person making an application to rent a unit within the housing development within ten (10) days from the date of such application, in writing of:

(1) Whether the tenant is eligible to rent such unit;

(2) Whether, based upon turnover history, if any, a unit for which the tenant is eligible will be available within six (6) months; and

(3) If the tenant is not eligible, a statement of the reasons for such lack of eligibility.

(4) The applicant's right to be placed on a waiting list for vacancies occurring in the housing development, and notified by the housing sponsor of vacancies for which the applicant is an eligible tenant, subject to the rental priorities for the housing development approved by the agency.

(f) Require that a list of all applicants for tenancy within the housing development be kept for a period of one year from the date the application is filed with the housing sponsor.

(g) Explicitly provide that the housing sponsor shall not utilize status criteria (e.g., source of income, sexual preferences, marital status, dress and grooming standards) in determining tenant eligibility under the plan.

HISTORY

1. Repealer of former article 4 (sections 11301–11303) and renumbering of former article 5 to new article 4 filed 11–12–96; operative 12–12–96 (Register 96, No. 46). For prior history of article 4, see Register 90, No. 14.

§ 11402. Leases.

The Agency shall provide a lease, consistent with all applicable federal and state laws, regulations, and orders, to housing sponsors for those units regulated under this chapter.

All leases subject to this chapter shall:

(a) Contain an explicit statement of the tenant's rights under Section 1942 of the Civil Code.

(b) Provide that at least thirty (30) days before filing an application with the agency for an increase in the maximum permissible rent or utility service charges to be paid by tenants, the housing sponsor shall notify the tenants of the proposed rent and/or utility increases.

(c) Copies of such notice shall be delivered directly or by mail to each tenant. The notice shall:

(1) State the proposed date of which the application for increases is to be filed with the agency;

(2) Set forth the reasons for requesting the increases, the amount of the increases for each type of unit in the housing development, and provide that any tenant or representative of the tenant may inspect any documents the housing sponsor intends to forward to the agency in connection with its application at a designated place within the housing development during regular business hours of the housing sponsor;

(3) Provide that the housing sponsor shall meet at a designated place within the housing development with all interested tenants and their representatives at least ten (10) but not more than fifteen (15) days prior to submitting the application for such increases to the agency and shall further state that written comments on the proposed increases may be submitted to the agency by the tenants at: (insert address of applicable agency office).

(d) Provide that the housing sponsor will give at least seventy-two (72) hours written notice of any proposed annual inspection of the tenant's unit by the agency.

NOTE: Authority cited: Section 51050, Health and Safety Code.

HISTORY

1. Amendment of section and new NOTE filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11403. Tenant Grievance Procedures.

Each housing sponsor of a rental housing development shall submit, together with its affirmative marketing program, proposed grievance procedures for resolving complaints by the housing sponsor concerning the housing sponsor's tenants and by its tenants concerning the housing sponsor or the housing sponsor's other tenants. The proposed procedures shall be reviewed by and subject to the approval of agency, which shall require such modifications in the procedures prior to approval as may be necessary or appropriate in the circumstances. The procedures shall contain such informal and/or formal mechanisms for dispute resolution as are appropriate given the nature of the housing sponsor, the size and nature of the housing development, and the characteristics of the tenants (including the extent of English language fluency).

A written copy of the procedures as approved shall be given to each tenant at the time of admission to the housing development and at such times as the procedures are changed or amended thereafter.

Neither utilization of nor participation in such dispute resolution procedures shall constitute a waiver of, or affect in any manner whatever, any rights the tenant or the housing sponsor may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter. The procedures specified in this section shall be in addition to the eviction hearings procedure required by Section 11406.

Where appropriate the grievance procedures shall provide that any unresolved disputes shall be referred to the agency for its recommendation of a proposed resolution of the dispute.

§ 11404. Housing Sponsor Grievance Procedure.

Any grievance (other than one involving tenants) including any contractual dispute, of a housing sponsor concerning another housing sponsor or the Agency shall be presented either orally or in writing, to the Chief Deputy Director so that the grievance may be discussed informally and settled without a formal hearing. Neither utilization of nor participation in this grievance resolution procedure shall constitute a waiver of, or affect in any manner whatever, any rights that any housing sponsor or the agency may have to a trial de novo or judicial review in any judicial proceedings which may thereafter be brought in the matter.

NOTE: Authority cited: Section 51050, Health and Safety Code. Reference: Section 51066, Health and Safety Code.

HISTORY

1. Amendment of section and new NOTE filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11405. Termination of Tenancies Other Than by Eviction.

A tenancy may be terminated without the termination being deemed an eviction under the following circumstances:

(a) Death of the sole tenant of a unit.

(b) By the tenant at the expiration of the term of the tenancy.

(c) By abandonment of the premises by the tenant providing the housing sponsor complies with the provisions of Section 1951.3 of the Civil Code to establish such abandonment.

(d) By the housing sponsor where the tenant has furnished uncontradicted information to the housing sponsor which fails to establish the tenant's financial eligibility to remain in the tenant's unit, providing the housing sponsor gives the tenant written notice of such termination pursuant to Section 1946 of the Civil Code.

Any termination of a tenancy other than for the reasons set forth in this section shall constitute an "eviction" and shall be effected only pursuant to the provisions of Section 11406.

§ 11406. Eviction Hearing Procedure.

(a) Notice to Tenant. Termination of the lease other than pursuant to the provisions of Section 11405 shall constitute an "eviction" for purposes of this section. Eviction proceedings shall be commenced by the giving of notice as required by Section 51066(b) of the Act. In the case of an eviction upon the ground of "other good cause" as permitted by subsection g(3) of this section, the notice shall be given pursuant to Section 1946 of the Civil Code and shall otherwise comply with the requirements of 24 C.F.R. Section 883.708(c)(2).

(b) Notice to Agency. As soon as practicable after the receipt by the housing sponsor of a request for a hearing pursuant to Section 51066(c) of the Act ("Hearing"), the housing sponsor or the tenant shall give notice to the agency of a request for a Hearing. However, the housing sponsor shall remain ultimately responsible for notifying the agency of a request for a Hearing. Said notice shall include a statement of the cause for eviction.

(c) Presiding Officers. The Hearing shall take place before a hearing officer who shall be an impartial, disinterested person, or, at the discretion of the agency, a hearing panel. Said hearing officer or hearing panel shall be selected by the agency. A party may, within twenty–four (24) hours of receiving the initial written notification from the agency identifying the hearing officer or hearing panel, request that a new hearing officer or hearing panel be assigned. The other party may, within twenty–four (24) hours of receiving the written notification from the agency identifying the reassigned hearing officer or hearing panel, request that a new hearing officer or hearing panel be assigned. Each party may request the assignment of a new hearing officer or hearing panel only once during the hearing process.

(d) Escrow Deposit. The tenant shall deposit in an escrow account maintained by the agency rent for the two week Hearing period if not already paid by such time. The escrow deposit must be received by the agency no later than twenty–four (24) hours prior to the commencement of the hearing as indicated in the written notice prepared by the agency. Failure to provide the escrow deposit in accordance with this paragraph shall result in a waiver of the tenant's right to the Hearing.

(e) Scheduling of Hearing. The agency shall schedule a Hearing promptly for a time and place reasonably convenient to both the housing sponsor and the tenant but not more than two weeks from the date the notice of request for a Hearing was received by the agency. A written notification specifying the time, place, and the procedures governing the Hearing shall be delivered to the housing sponsor and the tenant.

(f) Procedures Governing the Hearing.

(1) The housing sponsor and the tenant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:

(A) The opportunity by the tenant to examine prior to the Hearing and, at the expense of the tenant, to copy, all documents and records of the housing sponsor that are relevant to the hearing and not privileged (any document not so made available after request therefore by the tenant may not be used or relied on by the housing sponsor at the Hearing),

(B) The right to representation, so long as an appearance by the representative does not delay the scheduling of the Hearing beyond the two week period specified in subsection (e),

(C) A private Hearing, unless both the tenant and housing sponsor request a public Hearing,

(D) The right to present evidence and arguments in support of his or her position, to controvert evidence relied on by the opposing party, and to confront and cross–examine all witnesses testifying at the Hearing, and

(E) A decision based solely and exclusively upon the facts presented at the Hearing that "good cause," as defined by subsection (g) of this section, for eviction has or has not been shown by a preponderance of the evidence.

(2) At the Hearing, the housing sponsor must first make a showing of "good cause" for eviction and must thereafter sustain the burden of proof as to that issue.

(3) The Hearing shall be conducted informally by the hearing officer or hearing panel and oral or documentary evidence relevant to the "good cause" issue may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing officer or hearing panel shall require the housing sponsor, the tenant, representatives of the housing sponsor or tenant, and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer or hearing panel to obtain order may result in exclusion from the proceedings. Either the housing sponsor or the tenant may arrange, in advance and at the expense of the party making this arrangement, to make a transcript of the Hearing.

(4) If the housing sponsor or the tenant fails to appear at a scheduled Hearing (either personally or by representative), or notifies the Agency of an intent not to be present at the scheduled Hearing, the hearing officer or hearing panel may make a determination to postpone the Hearing for a period not to exceed five business days or may make a determination that the party has waived his or her right to a Hearing. Both the housing sponsor and the tenant shall be notified of any such determination by the hearing officer or the hearing panel, such notification to include the date, time, and place of the rescheduled Hearing, if any.

(5) The hearing officer or hearing panel shall prepare a written decision, together with the reason therefor, within a reasonable time after the Hearing but, unless said Hearing was a rescheduled Hearing pursuant to subsection (f)(4) of this section, not later than two weeks after the date of receipt by the agency of the request for Hearing. A copy of the decision shall be sent to the housing sponsor, the tenant and the agency.

Neither utilization of nor participation in the Hearing process of this section shall constitute a waiver of, or affect in any manner whatever, any rights that the tenant or housing sponsor may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

(g) Definition of "Good Cause."

The housing sponsor may evict a tenant only upon the following grounds:

(1) Material noncompliance with the lease, which includes:

(A) one or more substantial violations of the lease, or

(B) habitual minor violations of the lease which:

1. Disrupt the livability of a building,

2. Adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities,

3. Interfere with the management of the building, or

4. Have an adverse financial effect on the building. Rent shall be due on the first day of the rental period but will not be late until after the fifth day of that period. Unjustified non–payment of rent after the fifth day of the rental period but before either the running of a three–day notice to pay rent or quit or the close of business of the day after the day on which a Hearing decision is issued shall constitute a minor violation under the lease, but non–payment of rent or any other financial obligation under the lease after either such period shall constitute material noncompliance with the lease.

(2) Material failure to carry out obligations under state law, or

(3) Any other good cause, which may include the refusal of a family to accept an approved modified lease, for which a notice has been given as required by 24 C.F.R. Section 880.607(b)(2) or (d).

NOTE: Authority cited: Section 51050, Health and Safety Code. Reference: Section 51066, Health and Safety Code; and 24 C.F.R. Section 880.

HISTORY

1. Amendment of subsections (a), (b) and (g) filed 10–23–85; effective thirtieth day thereafter (Register 85, No. 43).
2. Editorial correction of subsection (g) filed 12–2–85; effective thirtieth day thereafter (Register 85, No. 49).
3. Amendment of section and NOTE filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

Article 6. Construction Loans Where Agency Does Not Provide Permanent Financing

§ 11500. Construction Loans for Housing Developments for Which the Agency Does Not Provide Permanent Financing.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Sections 51100, 51226 and 51227, Health and Safety Code.

HISTORY

1. New Article 6 (Sections 11500–11505, not consecutive) filed 12–15–81; effective thirtieth day thereafter (Register 81, No. 51).
2. Repealer of article 6 (sections 11500–11505) and section filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11502. Labor Standards.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Section 50953, Health and Safety Code.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11503. Equal Opportunity and Affirmative Action Requirements.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Section 50955, Health and Safety Code.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11504. Substitution of Agency Funds for Mortgage Lender's Resources.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Section 51070, Health and Safety Code.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 11505. Servicing in Event of Sponsor's Default.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Section 51152, Health and Safety Code.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

Chapter 3. Restrictions on Agency Public Benefits to Aliens

Article 1. General

§ 12001. Authority and Purpose.

This chapter is adopted pursuant to Section 51050(e) of the California Health & Safety Code in order to implement the provisions of federal legislation known as the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. No. 104–193, 8 U.S.C. § 1601, et seq.), which provides that only citizens or other nationals of the United States or qualified aliens may receive agency public benefits. The purpose of this chapter is to implement those requirements by establishing rules and procedures for verifying the eligibility of applicants for agency public benefits.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–2), article 1 (sections 12001–12005) and section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 84, No. 8.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Amendment of section and NOTE filed 11–2–98; operative 12–2–98 (Register 98, No. 45).

§ 12002. Definitions.

(a) Any term defined in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the California Health & Safety Code shall have the same meaning when used in this chapter as is given to it by said chapter of the California Health & Safety Code unless further or otherwise defined in this section.

(b) "Adult" means an individual who is 18 years of age or older or an emancipated minor (under 18 years of age).

(c) "Agency" means the California Housing Finance Agency.

(d) "Agency public benefit" means either of the following (excluding any benefit provided from the California Housing Loan Insurance Fund):

(1) any multifamily program unit, or

(2) any single family program loan.

(e) "Alien" means any person who is not a citizen or other national of the United States.

(f) "Applicant" means any of the following:

(1) In the case of a new tenancy for a multifamily program unit, each adult member of the household that intends to occupy the unit, or

(2) In the case of an existing tenancy for a multifamily program unit, either the head of the household that intends to continue to occupy the unit, or his or her spouse, provided however that if the household includes any other adult members other than the applicant's spouse, lineal ascendants (including but not limited to parents and grandparents) of the applicant or of his or her spouse, then such person shall also be subject to verification as an applicant, or

(3) In the case of a single family program loan, each person whose name will appear on the legal title to the residential structure which secures the loan.

(g) "Citizen" means a "citizen of the United States" as defined in the INA.

(h) "Existing tenancy" means either of the following:

(1) a tenancy which occupied a multifamily program unit before the effective date of this chapter and continues to occupy it thereafter, or

(2) a tenancy which occupied a multifamily program unit before the agency financed the applicable housing development or residential structure and continues to occupy it thereafter.

(i) "Final verification" or "finally verified" means a determination that an applicant is eligible pursuant to this chapter upon completion of the steps, as applicable, set forth in subparagraphs (a), (b), (c) and (d) of Section 12104 of this chapter.

(j) "Head of household" means the adult member of the household who is the head of the household for the purposes of determining income eligibility.

(k) "Housing development" means as defined by Section 50073.5 of the California Health & Safety Code. Housing development shall also include multifamily rental housing projects financed pursuant to Chapter 6.7 of Part 3 of Division 31 of the California Health & Safety Code.

(l) "Housing sponsor" means as defined by Section 50074.5 of the California Health & Safety Code. Housing sponsor shall also include the agency in any case where the agency owns or operates a housing development or residential structure.

(m) "INA" means the Immigration and Nationality Act (8 U.S.C. § 1101, et seq.).

(n) "INS" means the Immigration and Naturalization Service of the United States Department of Justice.

(o) "Member of spouse's or parent's family" means any person related by blood, marriage or adoption to the spouse or parent, or any person hav-

ing a relationship with the spouse or parent that is covered by civil or criminal domestic violence statutes of the State of California.

(p) "Multifamily program unit" means any rental dwelling unit which is located in a housing development or residential structure and required by the agency, pursuant to a law or regulatory or other agreement, to be occupied by a lower income household or very low income household.

(q) "National" means, as provided in the INA, either of the following:

(1) a citizen, or

(2) a person who, though not a citizen, owes permanent allegiance to the United States.

(r) "New loan" means a single family program loan for which a loan application package is received by the agency for approval after the effective date of this chapter.

(s) "New tenancy" means either of the following:

(1) a household that intends to commence occupancy of a multifamily program unit, or

(2) a household that intends to join another household which already occupies a multifamily program unit.

(t) "Nonimmigrant" means as defined in Section 101(a)(15) of the INA (8 U.S.C. § 1101(a)(15)).

(u) "Nonprofit charitable organization" means a "nonprofit charitable organization" as provided in Section 432 of PRWORA, as amended by Pub.L. No. 104–208 (8 U.S.C. § 1642(d)) which shall include, but not necessarily be limited to, organizations which have received a tax exemption pursuant to Internal Revenue Code Section 501(c)(3) and which shall exclude, but which exclusion shall not necessarily be limited to, partnerships which have a nonprofit charitable organization as a general partner unless the partnership itself is both nonprofit and charitable. An organization is "nonprofit" if it is organized and operated for purposes other than making gains or profits for the organization or its members or shareholders and is precluded from distributing any gains or profits to its members or shareholders. An organization is "charitable" if it is organized and operated for charitable purposes, including, but not limited to, relief of the poor and distressed or of the underprivileged, advancement of religion, or advancement of education.

(v) "Preliminary verification" or "preliminarily verified" means that a citizen or other national of the United States applicant has completed the steps set forth in subparagraph (a)(1) and (2) of Section 12104 of this chapter and that an alien applicant has completed the steps set forth in subparagraphs (a)(1), (2) and (3) of Section 12104 of this chapter.

(w) "PRWORA" means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. No. 104–193, 8 U.S.C. § 1601, et seq.) as amended.

(x) "Qualified alien" means an alien who, at the time he or she is an applicant for an agency public benefit, is any of the following:

(1) An alien lawfully admitted for permanent residence under the INA (8 U.S.C. § 1101, et seq.).

(2) An alien who is granted asylum under Section 208 of the INA (8 U.S.C. § 1158).

(3) A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C. § 1157).

(4) An alien who is paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)).

(5) An alien whose deportation is being withheld under Section 243(h) of the INA (8 U.S.C. § 1253(h)) (as in effect prior to April 1, 1997), or whose removal is being withheld under Section 241(b)(3) of the INA (8 U.S.C. § 1231(b)(3)).

(6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980. (8 U.S.C. § 1153(a)(7)) (See editorial note under 8 U.S.C. § 1101, "Effective Date of 1980 Amendment.").

(7) An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (8 U.S.C. § 1522 note)).

(8) An alien who meets all of the conditions of subparagraphs (A), (B), (C) and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. For purposes of this subparagraph, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the agency. For purposes of this subparagraph, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien to become self–sufficient following separation from the abuser.

2. The benefits are needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.

5. The benefits are needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser.

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to place medical coverage or health care services the alien had when living with the abuser.

(C) The alien has been approved or has a petition pending which sets forth a prima facie case for:

1. status as a spouse or child of a United States citizen pursuant to clause (ii), (iii) or (iv) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)(ii), (iii) or (iv)),

2. classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 1154(a)(1)(B)(ii) or (iii)),

3. suspension of deportation and adjustment of status pursuant to Section 244(a)(3) of the INA (8 U.S.C. Section 1254) as in effect prior to April 1, 1997 [Pub.L. 104–208, Section 501 (effective September 30, 1996, pursuant to Section 591); Pub.L. 104–208, Section 304 (effective April 1, 1997, pursuant to Section 309); Pub.L. 105–33, Section 5581 (effective pursuant to Section 5582)] (incorrectly codified as "cancellation of removal under section 240A of such Act [8 U.S.C. Section 1220b] (as in effect prior to April 1, 1997),

4. status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)(i), or classification pursuant to clause (i) of Section 204(a)(1)(B)(i) (8 U.S.C. § 1154(a)(1)(B)(i)), or

5. cancellation of removal pursuant to Section 240A (b)(2) of the INA (8 U.S.C. § 1229b (b)(2)).

(D) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(9) An alien who meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below:

(A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty. For purposes of this subparagraph, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) The alien did not actively participate in such battery or cruelty.

(C) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the agency. For the purposes of this subparagraph, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien's child to become self-sufficient following separation from the abuser.

2. The benefits are needed to enable the alien's child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien's child from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien's child's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien's child to lose his or her job or to earn less or to require the alien's child to leave his or her job for safety reasons.

5. The benefits are needed because the alien's child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's child's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.

(D) The alien meets the requirements of subparagraph (x)(8)(C) above.

(E) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(10) An alien child who meets all of the conditions of subparagraphs (A), (B), and (C) below:

(A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty. For purposes of this subparagraph the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the agency. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien child's parent to become self-sufficient following separation from the abuser.

2. The benefits are needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.

5. The benefits are needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

(C) The alien child meets the requirements of subparagraph (x)(8)(C) above.

(11) A nonimmigrant.

(y) "Qualified mortgage lender" means a mortgage lender who, pursuant to a mortgage purchase and/or servicing or other agreement with the agency, is authorized by the agency to originate for sale to the agency and/or to service single family program loans. Qualified mortgage lender shall also include the agency in any case where the agency is directly originating or servicing, as applicable, single family program loans.

(z) "Residential structure" means as defined by Section 50099.5 of the California Health & Safety Code.

(aa) "Status verifier" means the entity, including the agency or qualified mortgage lender, as applicable, responsible for verifying the eligibility of an applicant pursuant to this chapter.

(bb) "Single family program loan" means any mortgage loan originated or purchased, and owned, by the agency for the purpose of financing the construction, acquisition and/or rehabilitation of an owner-occupied residential structure.

(cc) "Unqualified alien" means an alien who is not a qualified alien.

(dd) "Written notice" means a written notification which is either hand-delivered, facsimile-transmitted or sent by certified mail. Hand-delivered notices shall be deemed received when delivered. Facsimile-transmitted notices shall be deemed received when transmitted. Certified mail notices shall be deemed received on the third calendar day following the date it is mailed.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

HISTORY

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Amendment of section and NOTE filed 11–2–98; operative 12–2–98 (Register 98, No. 45).
4. Amendment of subsection (y), redesignation and amendment of former subsection (bb) to new subsection (aa), and redesignation of former subsection (aa) as new subsection (bb) filed 2–4–99 as an emergency; operative 2–4–99 (Register 99, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–4–99 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 2–4–99 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 5).

§ 12003. Limitation.

The purpose of this chapter is limited to establishing rules and procedures for verifying the eligibility of applicants for agency public benefits on the basis of United States citizenship, nationality or qualified alien status. In addition to the eligibility requirements set forth in this chapter, an applicant must also satisfy all other eligibility requirements pertaining to an agency public benefit.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

HISTORY

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Amendment of NOTE filed 11–2–98; operative 12–2–98 (Register 98, No. 45).

§ 12004. Severability.

If any provision of this chapter or the application of such provision to any person or circumstance is held to be unlawful, the remainder of this chapter and the application of the provisions of such to any person or circumstance shall not be affected thereby.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

HISTORY

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Amendment of NOTE filed 11–2–98; operative 12–2–98 (Register 98, No. 45).

§ 12005. Nondiscrimination.

All eligibility requirements contained in this chapter shall be applied without regard to the race, creed, color, gender, religion, national origin (except to the extent specifically authorized under PRWORA), or disability of the applicant.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

HISTORY

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Amendment of section and NOTE filed 11–2–98; operative 12–2–98 (Register 98, No. 45).

Article 2. Eligibility for Benefits

§ 12101. Eligibility for Agency Public Benefits.

To be eligible to receive an agency public benefit, an applicant must be a citizen or other national or qualified alien, as provided herein. In the case of a multifamily program unit, if, and so long as, any applicant in a household is ineligible then the entire household is ineligible. It is an applicant's responsibility to affirmatively establish his or her eligibility.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

HISTORY

1. New article 2 (sections 12101–12108) and section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Amendment of section and NOTE filed 11–2–98; operative 12–2–98 (Register 98, No. 45).

§ 12102. When Must Eligibility Be Verified.

(a) In the case of a new tenancy, a multifamily program unit shall not be occupied unless and until the eligibility of all applicants for that unit has been preliminarily verified in accordance with this chapter. Following occupancy the remainder of the applicant's final verification process shall be continued on or before the next scheduled annual eligibility recertification, or, if none is scheduled, within one hundred eighty (180) calendar days of occupancy.

(b) In the case of an existing tenancy, the final verification process shall be commenced on or before the next scheduled annual eligibility recertification of that unit, or if none is scheduled, within one hundred eighty (180) calendar days of the effective date of this chapter. Notwithstanding the foregoing, when a tenancy occupies a non–multifamily program unit within a housing development or residential structure and that unit is substituted by the housing sponsor for a multifamily program unit within such housing development or residential structure, the tenancy shall be treated as an existing tenancy except that the eligibility of all applicants shall be finally verified before it shall be deemed to be qualified as a multifamily program unit.

(c) In the case of a new loan, a single family program loan shall not be made unless and until the eligibility of all applicants has been finally verified in accordance with this chapter. Notwithstanding any other provision of this chapter, in the event that an applicant's new loan verification process is not completed within fifteen (15) calendar days following the commencement of such process, neither the agency nor the qualified mortgage lender shall be required to continue to process or make the loan if either determines, in its sole discretion, that further delay will cause the loan to be uneconomical or otherwise not feasible. In the event that such a determination is made, and notwithstanding any other provision of this chapter, the verification process shall be terminated without further processing or appeal. If such a determination is made, the applicant(s) shall immediately be given a written notice of it.

(d) In the case of any single family program loan, the eligibility of any applicant who wishes to acquire, or be added to the title to, the residential structure shall be finally verified before the agency grants any necessary approval of such acquisition or addition to title.

(e) Except as provided in subparagraph (a) and (c) of this section, once a final verification process is commenced, it shall be diligently pursued to completion.

(f) Generally an applicant's eligibility need only be finally verified once during the life of the loan provided however that in any case where there is reasonable cause to believe that an applicant's eligibility status has been misrepresented, the applicant's eligibility may be reverified.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

History

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. New subsections (a) and (b), subsection relettering, amendment of newly designated subsections (c), (e) and (f) and NOTE filed 11–2–98; operative 12–2–98 (Register 98, No. 45).

§ 12103. Who Must Verify Eligibility.

(a) When a new loan is being made, eligibility shall be verified by the qualified mortgage lender who originates the loan. When an applicant is acquiring, or being added to the title to, the residential structure of a single family program loan, eligibility shall be verified by the qualified mortgage lender who is servicing the loan.

(b) In the case of a multifamily program unit, eligibility shall be verified by the housing sponsor which owns the housing development or residential structure.

(c) Pursuant to Section 432(d) of PRWORA (8 U.S.C. § 1642(d)) and notwithstanding any other provision of this chapter, a nonprofit charitable organization that provides agency public benefits is not required to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits nor is any such applicant required to be eligible. A nonprofit charitable organization shall be deemed to be providing an agency public benefit only when it is the qualified mortgage lender for a single family program loan or housing sponsor which owns a multifamily program unit, as applicable.

(d) In the case of a multifamily program unit, the reasonable cost of performing eligibility verifications shall be treated as an operating expense of the housing development or residential structure and the housing sponsor may charge a new tenancy applicant (but not an existing tenancy applicant) a reasonable eligibility verification fee only if approved in writing by the agency. In the case of a single family program loan, the qualified mortgage lender may charge an applicant a reasonable eligibility verification fee only if approved in writing by the agency.

(e) Notwithstanding the provisions of subparagraph (a) and (b) of this section, in the event that an applicant claims qualified alien status on the basis of facts and circumstances as set forth in subparagraphs (x)(8), (x)(9) or (x)(10) of Section 12002 of this chapter (involving a person who was battered or subjected to extreme cruelty in the United Sates), then the agency shall determine such eligibility as further provided in subparagraph (a)(3) of Section 12104 of this chapter.

(f) The status verifier shall keep a record of the information upon which an applicant's eligibility verification or ineligibility determination is based and shall retain such records for at least four (4) years following the completion of the verification process, except that when a single family program loan is made, the qualified mortgage lender shall keep such information for the life of the loan.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

History

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Amendment of section and NOTE filed 11–2–98; operative 12–2–98 (Register 98, No. 45).

§ 12104. Method of Verifying Eligibility.

(a) To obtain a final verification of eligibility for agency public benefits, the following requirements must be met:

(1) The applicant must declare under penalty of perjury, that he or she is either a citizen or other national of the United States or a qualified alien, by completing and signing the "Statement of Citizenship, Alienage and Immigration Status for State Public Benefits" form, CHFA Benefit Status Form 1, 9/98 ("Form 1") which is incorporated herein by this reference. If the applicant is an unemancipated minor (under 18 years of age) or an adult who is not competent to or has a disability which renders him/her unable to understand or execute the Form 1, the Form 1 must be executed by a parent, legal guardian, or other person legally qualified to act on behalf of the applicant; and

(2) The applicant must present documentation which contains a photograph or other information which describes the applicant (i.e. height, weight and age) that is sufficient to identify the applicant as the person named in the signed Form 1. In the event that the applicant fails to produce proper identification, the agency public benefit shall be denied without further verification; and

(3) The applicant must present documents, of a type acceptable to the INS (as set forth in List A of Form 1 in the case of an applicant who is a citizen or other national or as set forth in Section B or List B of Form 1, as applicable, in the case of an applicant who is an alien), in support of the applicant's declared status. An alien applicant must present unexpired originals of the most recently issued evidence of alien registration. In the event that an applicant claims qualified alien status pursuant to facts and circumstances as set forth in subparagraphs (x)(8), (x)(9) and (x)(10) of Section 12002 of this chapter (involving a person who was battered or subjected to extreme cruelty in the United States), then the Form 1 and copies of any identity and supporting documents shall be forwarded to the agency for verification. If an alien applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant shall be referred to the local INS office to obtain appropriate documentation and the agency public benefit shall be denied unless and until such documentation is presented. A fee receipt from the INS for replacement of a lost, stolen or unreadable INS document is not an acceptable substitute for the document it replaces, however, it shall suffice for the purposes of a preliminary verification. If the applicant presents documents which clearly show that the applicant is not a citizen or other national or qualified alien and the applicant does not dispute the status shown, then the agency public benefit shall be denied without further verification.

(4) Where the documents presented pursuant to subparagraph (a)(3) of this section do not on their face appear to be genuine or otherwise to be reasonable evidence of the applicant's declared status, the status verifier shall take appropriate steps to verify the declared status of the applicant. Ordinarily, the government or other entity that originally issued the documents shall be contacted for verification by the status verifier. With regard to naturalized citizens and derivative citizens presenting certificates of citizenship and aliens, the INS shall be contacted for verification. The status verifier shall request verification from the INS by sending INS Form G–845 (or any successor form designated by the INS) with copies of the pertinent documents provided by the applicant to the appropriate INS office as directed by the INS. Notwithstanding the foregoing, in the event that the INS will only accept INS Form G–845 filings from the agency, the status verifier shall forward the completed form to the agency who shall then send it to the INS. In the event that the INS then returns their response to the G–845 to the agency, the agency shall forward it to the status verifier.

(5) The type of documentation referred to the INS for verification pursuant to INS Form G–845 shall include, but not necessarily be limited to, the following:

(A) The document presented indicates immigration status but does not include an alien registration or alien admission number.

(B) The document is suspected to be counterfeit or to have been altered.

(C) The document includes an alien registration number in the A60 000 (not yet issued) or A80 000 (illegal border crossing) series.

(D) The document is one of the following: an INS Form I–181b notification letter issued in connection with an INS Form I–181 Memorandum of Creation of Record of Permanent Residence, an Arrival–Departure Record (INS Form I–94) or a foreign passport stamped "PROCESSED FOR I–551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT

RESIDENCE" that INS issued more than one year before the date of application for the agency public benefit.

(6) If the INS advises that the applicant is a citizen, other national or a qualified alien, the INS verification shall be accepted and the applicant determined to be eligible. If the INS advises that it cannot verify that the applicant is a citizen, other national or a qualified alien, the agency public benefit shall be denied unless citizenship or other national status can be verified from another source.

(b) Notwithstanding any other provisions of this chapter, where an applicant has been verified by another federal, state or local entity as eligible to receive some other federal, state or local public benefit as provided by PRWORA, such verification may be accepted by the status verifier as a verification which satisfies this chapter so long as the status verifier has a reasonable belief that such verification process ensures the eligibility of the applicant as required by this chapter.

(c) If determined to be ineligible, the applicant shall be given a written notice of such determination which includes the following information:

(1) Provides the basis of the denial (i.e. his/her immigration status), and

(2) Provides information on how the applicant may contact the INS to provide additional oral or written information to the INS if he/she believes that any information provided by the INS to the status verifier was erroneous, and

(3) Provides information which identifies the status verifier, the agency and the agency public benefit and includes the agency's address, and telephone number, and

(4) Provides a description of the agency appeal process which is available to the applicant.

(d) The verification process shall be deemed to have commenced when the applicant completes and signs the Form 1 referred to in subparagraph (a)(1) of this section and to be completed upon the completion of the applicable appeals process as provided in Section 12107 of this chapter. In the event that the applicant does not request an appeal in a proper and timely manner, then the verification process shall be deemed to be completed upon the expiration of the time limit for requesting the appeal. The applicant may waive, in writing, his or her right to appeal at any time prior to the expiration of the time limit for requesting the appeal and the verification process shall be deemed to be completed upon receipt by the status verifier of such waiver.

(e) The agency and any housing sponsor or qualified mortgage lender acting pursuant to this chapter shall not be liable for any action, delay or failure of the INS or any other person or entity in conducting the verification process.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

HISTORY

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Amendment of section and NOTE filed 11–2–98; operative 12–2–98 (Register 98, No. 45).
4. Amendment of subsection (b) filed 2–4–99 as an emergency; operative 2–4–99 (Register 99, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–4–99 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 2–4–99 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 5).

§ 12105. Federal Public Benefits.

Where a multifamily program unit, single family program loan or residential structure secured by a single family program loan is a federal public benefit pursuant to the provisions of PRWORA, such Federal public benefit provisions shall apply instead of the provisions of this chapter.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

HISTORY

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Repealer of former section 12105 and renumbering of former section 12106 to section 12105, including amendment of section and NOTE, filed 11–2–98; operative 12–2–98 (Register 98, No. 45).
4. Amendment filed 2–4–99 as an emergency; operative 2–4–99 (Register 99, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–4–99 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 2–4–99 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 5).

§ 12106. Remedies for Ineligibility.

(a) In the case of a new tenancy, any household containing one or more applicants who are determined to be ineligible prior to occupancy, shall be denied occupancy to the multifamily program unit.

(b) Where a multifamily program unit is occupied by an ineligible household, the housing sponsor shall, within one hundred eighty (180) calendar days following the completion of the eligibility verification process, either commence proceedings to evict the ineligible household or substitute for the noncompliant multifamily program unit another unit within the housing development or residential structure which is occupied by an eligible household (or which is vacant and reserved for occupancy by an eligible new tenancy household) and which is otherwise compliant with the agency's requirements. Notwithstanding any other provision of this chapter, in no event shall an eviction be commenced with respect to a multifamily program unit before one hundred eighty (180) calendar days following the effective date of this chapter. Once an eviction is commenced it shall be diligently pursued by the housing sponsor until the ineligible household is removed, unless prior thereto, the housing sponsor substitutes a compliant multifamily program unit for the noncompliant one. So long as such eviction is diligently pursued, the housing sponsor and the affected unit shall not be in violation of this chapter with respect to such unit.

(c) In the case of a new loan, all applicants who are not finally verified as eligible shall be denied the single family program loan. In the case of any single family program loan, all applicants who are not finally verified as eligible shall be denied any necessary agency approval of their acquisition of, or addition to title to, the residential structure.

(d) In the event that an applicant's citizenship, other nationality or alien status is misrepresented to a housing sponsor, qualified mortgage lender, the agency or their representatives for the purpose of obtaining an agency public benefit, such housing sponsor, qualified mortgage lender, the agency or their representatives may take appropriate remedial action against such applicant which may include but shall not necessarily be limited to denial of a single family program loan, denial of approval of the applicant's acquisition, or addition to title to, the residential structure securing a single family program loan, foreclosure of a single family program loan or debarment from the receipt of future agency public benefits.

(e) In the event that a housing sponsor or qualified mortgage lender fails to comply with the requirements of this chapter, such noncompliance shall be deemed to be a violation of not only this chapter but also a violation of any regulatory and/or other loan agreement with the agency or mortgage purchase and/or servicing and/or other agreement with the agency, as applicable, which violation shall entitle the agency to pursue any appropriate remedies against the housing sponsor or qualified mortgage lender under any provisions of such agreements or otherwise available at law or in equity. Notwithstanding the foregoing, a qualified mortgage lender shall only be liable for repurchasing a loan if it intentionally or negligently made the loan to an ineligible applicant.

NOTE: Authority cited: Sections 51050(e), 51050(s), 50167 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

HISTORY

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Renumbering of former section 12106 to section 12105 and renumbering of former section 12107 to section 12106, including amendment of section and NOTE, filed 11–2–98; operative 12–2–98 (Register 98, No. 45).

§ 12107. Appeal Process.

(a) Any applicant who is determined to be ineligible to receive an agency public benefit pursuant to this chapter may appeal such determination as provided in this section.

(b) The applicant shall utilize the following appeal process:

(1) To be considered, an appeal: (A) must be submitted in writing to the agency; (B) must be either hand–delivered, facsimile–transmitted or postmarked within fifteen (15) calendar days from the applicant's receipt of the written notice of determination of ineligibility; and (C) must state the reason the applicant believes the determination was in error.

(2) Upon receipt of an appeal, the agency shall appoint a person to serve as a review officer which person may be either an employee or independent contractor of the agency. The review officer shall not be the same person as rendered the determination being appealed nor a subordinate of such person.

(3) The review officer may determine the relevance of the submitted information and may request additional information from the applicant or the person who rendered the determination being appealed and any other source he or she determines, in his or her sole discretion, has relevant and reliable information, including but not limited to, the INS. The review officer may set a cut–off time after which no additional information will be accepted.

(4) The review officer shall conduct a review of the determination being appealed, including all information upon which it was based as well as all information submitted by the applicant in support of his or her appeal. The authority of the review officer shall be limited to determinations of eligibility pursuant to this chapter and he or she shall have no authority to overrule any decision or conclusion of the INS regarding the applicant's immigration status.

(5) Notwithstanding any other provision of this chapter, if, during the appeal process, the review officer is informed by the agency that the applicant is ineligible to receive the agency public benefit for reasons other than those set forth in this chapter, the appeal shall be dismissed.

(6) The review officer shall use his or her best efforts to provide a written notice of decision to the applicant within fifteen (15) calendar days following the receipt of the appeal provided, however, that in the event the review officer is unable to do so, he or she shall provide a written notice to the applicant that (A) additional time is necessary, (B) the reasons why, and (C) the date by which the decision will be rendered. In the event that the review officer is unable, after using his or her best efforts to do so, render the decision within the specified time frame, the review officer may repeat the extension process, as necessary, until the decision is rendered. The decision of the review officer shall be a final administrative decision which completes the final verification process.

NOTE: Authority cited: Sections 51050(e), 51050(s), 51067 and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070, 51100–51253 and 51325–51340, Health and Safety Code.

HISTORY

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Renumbering of former section 12107 to section 12106 and renumbering of former section 12108 to section 12107, including amendment of section and NOTE, filed 11–2–98; operative 12–2–98 (Register 98, No. 45).

§ 12108. Appeal Process.

NOTE: Authority cited: Sections 51050(e), 51050(s) and 51349, Health and Safety Code. Reference: 8 U.S.C. §§ 1601, 1621, 1625, 1641 and 1642; and Sections 51050–51070 and 51100–51253, Health and Safety Code.

HISTORY

1. New section filed 6–9–98 as an emergency; operative 8–1–98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 11–30–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–9–98 order transmitted to OAL 9–21–98 and filed 10–28–98 (Register 98, No. 44).
3. Renumbering of former section 12108 to section 12107 filed 11–2–98; operative 12–2–98 (Register 98, No. 45).

Chapter 4. Procedures of Board of Directors

Article 1. Board Action

§ 13300. Quorum.

A quorum shall consist of fifty–one percent (51%) of voting Board members then in office.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Sections 50901 and 50916, Health and Safety Code.

HISTORY

1. New Chapter 4 (Articles 1–4, Sections 13000–13302, not consecutive) filed 10–18–79; effective thirtieth day thereafter (Register 79, No. 42).
2. Repealer of Articles 1–3 (Sections 13000–13203, not consecutive) and Article 4 (Section 13302), and renumbering of Article 4 (Sections 13300 and 13301) to Article 1 (Sections 13300 and 13301) filed 7–28–83; effective thirtieth day thereafter (Register 83, No. 31).

§ 13301. Vote Requirement.

No action shall be taken by the Board of Directors without the affirmative vote of fifty–one percent (51%) of the voting Board members then in office at the duly called Board meeting.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Sections 50901 and 50916, Health and Safety Code.

§ 13302. Approval of Contractual Agreements and Debt Obligations.

(a) The Board of Directors shall authorize any sale of obligations or securities or other debt obligations and shall approve other major contractual agreements. Any other contractual agreements or debt obligations may be approved by the Executive Director pursuant to this section. The Board of Directors may also delegate any contracting authority to the Executive Director on terms provided by Board resolution.

(b) "Major contractual obligations" shall mean operating agreements or obligations which in any fiscal year exceed, or are reasonably expected to exceed the higher of $1,000,000, or such other sum as the Board of Directors may establish from time to time by resolution. Obligations which in any fiscal year do not exceed, or are not reasonably expected to exceed the amount established above may be approved by the Executive Director. The Board of Directors may approve any major contractual obligation either by resolution; or by approving the Agency's annual operating budget, provided that any such major contractual obligation is set forth in a line item in such budget. If the Executive Director determines that there is an emergency, and that such emergency requires the Agency to enter into a major contractual obligation on an expedited basis, the Executive Director may approve the obligation, but shall bring the obligation to the Board for review and ratification at the next regularly scheduled Board meeting.

(c) The Executive Director may delegate his/her authority to approve contractual agreements or debt obligations to any employee of the Agency. Except in the event of extraordinary circumstances, any such delegation of authority shall be in writing and a copy filed with the General Counsel prior to the exercise of such authority. Under extraordinary circumstances, the Executive Director may delegate orally his/her authority to approve contractual agreements or debt obligations. In delegating his/her authority to approve contractual agreements or debt obliga-

tions the Executive Director may impose limitations and/or conditions on such authority and may permit further delegation of such authority to any other employee of the Agency.

(d) "Extraordinary circumstances," as used in subdivision (c) above, means such circumstances as the Executive Director shall determine are sufficient to justify an oral delegation of his/her authority to approve contractual agreements or debt obligations. A determination by the Executive Director that extraordinary circumstances exist may be validly communicated, orally or in writing, to any employee of the Agency.

(e) The Executive Director may ratify the purported approval by any employee of the Agency of any contractual agreements or debt obligations which would have been within the authority of the Executive Director to approve at the time of such purported approval.

(f) No sale of obligations or securities or debt obligations or contractual agreements shall be approved unless and until they have been approved by the General Counsel as to legal sufficiency. The General Counsel shall determine which contractual agreements or debt obligations require Board of Director approval as provided herein and which do not. The General Counsel may issue opinions which interpret this section and any employee of the Agency may act in reliance upon such opinion. The General Counsel may delegate his/her authority under this section to other attorneys employed by the Agency.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Sections 7 and 50914, Health and Safety Code.

HISTORY

1. New section filed 10-16-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 42).
2. Amendment of subsections (a) and (c), repealer and new subsection (b), repealer of subsection (d) and subsection relettering filed 12-19-2005; operative 12-19-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

Chapter 5. Home Ownership and Home Improvement

Article 1. General

§ 14001. Authority and Purpose.

NOTE: Authority cited: Section 41835(e), Health and Safety Code.

HISTORY

1. New Chapter 5 (Articles 1-8, Sections 14001-14802 not consecutive) filed 10-21-77; effective thirtieth day thereafter (Register 77, No. 43).
2. Repealer of chapter 5, article 1 (sections 14001-14002) and section filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14002. Definitions.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

Article 2. Allocation of Funds and Market Interest

§ 14200. Allocation of Funds.

HISTORY

1. Repealer of article 2 (sections 14200-14202) and section filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14201. Market Interest.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14202. *Delegation.*

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

Article 3. Qualified Lender

§ 14300. Certification of Lender.

HISTORY

1. Repealer of article 3 (sections 14300-14301) and section filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14301. Requirements.

HISTORY

1. Amendment filed 8-17-78; effective thirtieth day thereafter (Register 78, No. 33).
2. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

Article 4. Eligible Borrowers

§ 14400. Eligible Borrowers.

HISTORY

1. Repealer of article 4 (sections 14400-14404) and section filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14401. Speculation Limitations.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14402. Equal Opportunity.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14403. (Reserved.)

§ 14404. Default by Borrower.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

Article 5. Eligible Loans and Residential Structures

§ 14500. Premises.

HISTORY

1. Repealer of article 5 (sections 14500-14508) and section filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14501. Use of Proceeds.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14502. Maximum Loan Amount.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14503. Appraisal.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14504. Interest on Mortgages.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14505. Late Charges.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14506. Prepayment Penalties.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14507. Fees and Charges.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 14508. Interest Rate Exceptions.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

Article 6. Purchase Agreements and Servicing Agreements

§ 14600. Purchase Agreements and Servicing Agreements.

HISTORY

1. Repealer of article 6 (sections 14600–14602) and section filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 14601. Provisions of Servicing Agreements.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 14602. Substitution of Agency Funds for Mortgage Lender's Resources.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

Article 7. Rehabilitation

§ 14700. Rehabilitation; Disbursement of Loan Proceeds; Delivery of Mortgage Loans upon Completion of Construction.

HISTORY

1. Repealer of article 7 (sections 14700–14701) and section filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 14701. Rehabilitation: Procedure in the Event Construction Is Not Completed.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

Article 8. Affirmative Action, Rent Limitations, Relocation

§ 14800. Affirmative Action.

HISTORY

1. Repealer of article 8 (sections 14800–14802) and section filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 14801. Rent Limitations.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

§ 14802. Relocation.

HISTORY

1. Repealer filed 11–12–96; operative 12–12–96 (Register 96, No. 46).

Chapter 6. Housing Bond Credit Committee: Regulations Prescribing Procedures

NOTE: Authority cited: Sections 51360 and 51360.5, Health and Safety Code. Reference: Sections 51360 and 51360.5, Health and Safety Code.

HISTORY

1. Order of Repeal of Chapter 6 (Articles 1–6, Sections 15000–15045, not consecutive) filed 6–3–85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26). For prior history, see Register 80, No. 26.

Chapter 10. Loan and Bond Insurance

Article 1. General

§ 19001. Definitions.

Unless otherwise defined in this Article all terms shall have the meanings set forth in Division 31 of the Health and Safety Code ("Code"), Chapter 2 of Part 1 and Chapter 1 of Part 4. As used in this Chapter the following terms shall have the meanings set forth herein:

(a) "Insurance" means loan or bond insurance issued by, or for which a commitment to issue has been made by, the Agency. The term "insurance" includes coinsurance or reinsurance.

(b) "Loan" means a mortgage loan, acquisition loan, construction loan, refinance loan, loan for rehabilitation, property improvement loan, or other advance of money or participation in such loan or advance, utilized for the provision of owner–occupied or rental housing dwelling units.

NOTE: Authority cited: Sections 51050(e) and 51650, Health and Safety Code. Reference: Sections 51650 and 51852(n), Health and Safety Code.

HISTORY

1. New Chapter 10 (Articles 1–3, Sections 19001–19300 not consecutive) filed 10–21–77; effective thirtieth day thereafter (Register 77, No. 43).
2. Repealer of Article 1 (Sections 19001 and 19002) and new Article 1 (Section 19001) filed 6–8–83; effective thirtieth day thereafter (Register 83, No. 24).

Article 2. Loan Insurance

§ 19200. Loans Eligible for Insurance.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Section 51654, Health and Safety Code.

HISTORY

1. Repealer of Article 2 (Sections 19200–19209) and new Article (Sections 19200–19207) filed 6–8–83; effective thirtieth day thereafter (Register 83, No. 24). For prior history, see Register 78, No. 33.
2. Amendment of subsections (a) and (b), repealer of subsection (c) and amendment of NOTE filed 3–30–2004; operative 3–30–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
3. Repealer of article 2 (sections 19200–19207) and repealer of section filed 12–19–2005; operative 12–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

§ 19201. Loan Insurance Premiums, Other Fees and Charges.

NOTE: Authority cited: Sections 51050(e), 51650 and 51855, Health and Safety Code. Reference: Section 51855, Health and Safety Code.

HISTORY

1. Repealer filed 12–19–2005; operative 12–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

§ 19202. Housing Development with Commercial Space.

NOTE: Authority cited: Sections 51050(e) and 51650, Health and Safety Code. Reference: Sections 51334(c) and 51852(g), Health and Safety Code.

HISTORY

1. Repealer filed 12–19–2005; operative 12–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

§ 19203. Casualty Insurance Requirements.

NOTE: Authority cited: Sections 51050(e) and 51650, Health and Safety Code. Reference: Section 51852(m), Health and Safety Code.

HISTORY

1. Repealer filed 12–19–2005; operative 12–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

§ 19204. Insured Loans Involving Rehabilitation or Property Improvement Loans.

NOTE: Authority cited: Sections 51050(e) and 51650, Health and Safety Code. Reference: Section 51852(j), Health and Safety Code.

HISTORY

1. Repealer filed 12–19–2005; operative 12–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

§ 19205. Loan Terms—Maximum Length and Loan to Value Ratio.

NOTE: Authority cited: Section 51050(e), Health and Safety Code. Reference: Section 51652, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 3-30-2004; operative 3-30-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
2. Repealer filed 12-19-2005; operative 12-19-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

§ 19206. Maximum—Loan Insurance.

NOTE: Authority cited: Sections 51050(e) and 51650, Health and Safety Code. Reference: Section 51852(b), Health and Safety Code.

HISTORY

1. Repealer filed 12-19-2005; operative 12-19-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

§ 19207. Establishment of Minimum Loan Insurance Reserve.

NOTE: Authority cited: Sections 51050(e), 51608 and 51650, Health and Safety Code. Reference: Section 51608, Health and Safety Code.

HISTORY

1. Repealer filed 12-19-2005; operative 12-19-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

Article 3. Bond Insurance for Local Public Entities

§ 19300. Agency Bond Insurance.

NOTE: Authority cited: Sections 51050(e), 51650 and 51900, Health and Safety Code. Reference: Sections 51900 and 51901, Health and Safety Code.

HISTORY

1. Amendment filed 8-17-78; effective thirtieth day thereafter (Register 78, No. 33).
2. Repealer of Article 3 (Sections 19300-19311) and new Article 3 (Sections 19300 and 19301) filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24). For prior history, see Register 78, No. 42.
3. Repealer of article 3 (sections 19300-19301) and repealer of section filed 12-19-2005; operative 12-19-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

§ 19301. Establishment of Minimum Bond Insurance Reserve.

NOTE: Authority cited: Sections 51050(e), 51605, 51608 and 51650, Health and Safety Code. Reference: Section 51605, Health and Safety Code.

HISTORY

1. Repealer filed 12-19-2005; operative 12-19-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

Article 4. Mortgage Insurance on SB1862 Loans

§ 19400. Insurance Requirements for Homeownership Interest-Reductions Assistance Program

NOTE: Authority cited: Sections 51050(e), 51345(b) and 51650, Health and Safety Code. Reference: Section 51345(b), Health and Safety Code.

HISTORY

1. New Article 4 (Section 19400) filed 1-28-83 as an emergency; effective upon filing (Register 83, No. 5). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-28-83.
2. Certificate of Compliance including amendment transmitted to OAL 5-5-83 and filed 6-8-83 (Register 83, No. 24).
3. Repealer of article 4 (section 19400) and repealer of section filed 12-19-2005; operative 12-19-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).

Chapter 20. Cal-First Home Buyers

Article 1. General

§ 20100. Authority and Purpose.

NOTE: Authority cited: Sections 51050(e), 52501, 52502 and 52506, Health and Safety Code. Reference: Sections 52500, 52501, 52505, 52506, 52510, 52513 and 52514, Health and Safety Code.

HISTORY

1. New Chapter 20 (Articles 1 and 2, Sections 20100-20200, not consecutive) filed 8-12-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 33).
2. Repealer of chapter 20, article 1 (sections 20100-20101) and section filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 20101. Definitions.

NOTE: Authority cited: Section 52506, Health and Safety Code. Reference: Sections 50068.7, 50086 and 52502, Health and Safety Code.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

Article 2. Cal-First Home Buyers Buy-Down Mortgage Plan

§ 20200. Real Property Mortgage Loans Eligible for the Buy-Down Mortgage Plan.

NOTE: Authority cited: Section 52512, Health and Safety Code. Reference: Section 52512, Health and Safety Code.

HISTORY

1. Repealer of article 2 (sections 20200-20209) and section filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 20201. The Buy-Down Mortgage Plan.

NOTE: Authority cited: Section 52513, Health and Safety Code. Reference: Section 52513, Health and Safety Code.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 20202. Lender Fees and Charges.

NOTE: Authority cited: Section 52512, Health and Safety Code. Reference: Section 52512, Health and Safety Code.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 20203. Terms of Note and Deed of Trust.

NOTE: Authority cited: Section 52514, Health and Safety Code. Reference: Section 52514, Health and Safety Code.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 20204. Eligible Borrowers.

NOTE: Authority cited: Section 52516, Health and Safety Code. Reference: Section 52516, Health and Safety Code.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 20205. Insurance of Loans.

NOTE: Authority cited: Section 52517, Health and Safety Code. Reference: Section 52517, Health and Safety Code.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 20206. Servicing.

NOTE: Authority cited: Section 52514, Health and Safety Code. Reference: Section 52514, Health and Safety Code.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 20207. Certification of Qualified Mortgage Lender.

NOTE: Authority cited: Section 50094(b), Health and Safety Code. Reference: Section 50094(b), Health and Safety Code.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 20208. Default and Foreclosure.

NOTE: Authority cited: Section 52519, Health and Safety Code. Reference: Section 52519, Health and Safety Code.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

§ 20209. Allocations.

NOTE: Authority cited: Sections 52511.5 and 52506, Health and Safety Code. Reference: Section 52511.5, Health and Safety Code.

HISTORY

1. Repealer filed 11-12-96; operative 12-12-96 (Register 96, No. 46).

* * *

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SUBJECT INDEX

Title 25

Housing and Community Development

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